REPORT - PLANNING COMMISSION MEETING
March 27, 2003

Applicant:	**Wal-Mart Stores, Inc. c/o Robert A. Karn & Associates (PLN2000-0070)**
Proposal:	A Conditional Use Permit (PLN 2000-0070) Preliminary Grading Plan (PLN 2000-0070), for a 155,652 square foot Wal-Mart Store.
Recommended Action:	Certification of the Final Environmental Impact Report (EIR) (SCH#2001082059), Approval of a Conditional Use Permit and Preliminary Grading Plan, based on findings and subject to conditions.
Location:	Osgood Road and Skyway Court, approximately one fourth mile south of the intersection of Osgood Road and Auto Mall Parkway, in the Industrial Planning Area.
APN:	519-1351-031-01
Area:	16.6 acre parcel
Owner:	Wal-Mart Stores Inc.
Agent of Applicant:	Robert A. Karn
Consultant(s):	Robert Karn, Robert A. Karn & Associates (Civil Engineers) Impact Sciences (EIR Consultant)
Environmental Review:	A Draft Environmental Impact Report (DEIR) was prepared and circulated from June 28 to August 12, 2002 and Portions of the Environmental Impact Report were Re-circulated (RPEIR) for a period of 45 day. The comment period on the RPEIR ended on February 11, 2003. A public hearing for the DEIR was held on August 8, 2002. Final Environmental Impact Report (EIR) responding to comments on the DEIR and RPEIR has been prepared and circulated for this project.
Existing General Plan:	GI, C-I, General Industrial, Commercial-Industrial Overlay
Existing Zoning:	G-I and, G-I (F) General Industrial district and General Industrial with Flood Combining District
Existing Land Use:	Undeveloped

Public Hearing Notice: Public hearing notification is applicable. 94 notices were mailed to interested parties and owners and occupants of property within a minimum radius of 300 feet of the site on the following streets: Osgood Road, Yale Way, Fremont Boulevard, Edison Way, Prune Avenue, Warm Springs Boulevard, and Skyway Court. The notices to owners and occupants were mailed on March 17, 2003. A Public Hearing Notice was delivered to The Argus newspaper on March 12, 2003 to be published by March 17, 2003.

Executive Summary: The Planning Commission is being asked to certify the Wal-Mart Final EIR, approve a Conditional Use Permit and a Preliminary Grading Plan for a 155,652 square foot Wal-Mart store located at Osgood Road and Skyway Court in the Industrial Planning Area. Following the approval of the Conditional Use Permit, the applicant will submit an application to re-subdivide the site into four parcels, one parcel for Wal-Mart and three parcels for future industrial uses.

Background: The proposed project was first heard by the Planning Commission on January 24, 2000, at which time several issues were raised by members of the public and Commission. These comments resulted in the redesign of the

on-site circulation system and further analysis of the uses allowed under the G-I (General Industrial) District. A discussion of retail and major development projects in the Auto Mall Parkway/ Osgood Road corridor and future of big box retail were evaluated. Additionally, enhanced landscaping along the front elevation to soften the visual impacts of the horizontal elevation were addressed. The project was continued to February 24, 2000. At that time, after extensive public comment, the Planning Commission denied the applicant's request for a Conditional Use Permit.

On March 6, 2000, the applicant (Wal-Mart) appealed the Planning Commission's decision to the City Council. The City Council held a public hearing to consider Wal-Mart's appeal on April 25, 2000 and at the May 23, 2000 Council meeting, the City Council adopted the Mitigated Negative Declaration and adopted findings approving a Conditional Use Permit for Wal-Mart.

United Food and Commercial Workers Union Local 870 filed a legal challenge to both the Conditional Use Permit and the City's adopted Mitigated Negative Declaration under California Environmental Quality Act (CEQA). In a decision dated March 5, 2001, the Alameda County Superior Court set aside the adoption of the Mitigated Negative Declaration, finding there was substantial evidence in the administrative record, in the form of facts and credible expert opinion, that the project may have significant environmental impacts related to air quality, public health, traffic and flooding. The court directed the City to prepare an Environmental Impact Report (EIR) to evaluate the potential impacts that could be caused by the proposed development. To comply with the Court's direction, a project EIR was prepared and circulated for public comments. The Planning Commission also held a public hearing on August 8, 2002 to receive public comments on the Draft EIR.

Project Description: The proposed project (as analyzed in the EIR) involves the development of the project site in two phases. Phase I would involve development of a Wal-Mart store and Garden Center with associated improvements on about 13.6 acres of the site. Phase I would also involve the installation of a central median and traffic signal on Osgood Road. In Phase II, it is assumed that the remaining three acres of the site would be developed as industrial uses. However, the EIR also evaluated, as an alternative, the potential impacts of the site being developed to accommodate retail uses. The area reserved for Phase II would be subdivided from the Wal-Mart project area through a Parcel Map. Both project phases are referred to as "the project" in the EIR.

Wal-Mart Building and Garden Center

Phase I of the project would involve construction of a Wal-Mart building that includes a Garden Center, a Tire and Lube Express Station (T.L.E.), and other uses. The building would be located on the western part of the project site. **Table 1, Summary of Proposed Development**, shows the proposed uses within the Wal-Mart building.

Table 1
Summary of Proposed Uses

Proposed Use	Size (Square Feet)
Indoor sales	121,100
Garden Center	14,512
Tire and Lube Express Station T.L.E.	5,919
Storage	11,454
Training	456
Break-room	846
Snack Bar	508
Subtotal	154,795
Dining (64 fixed seats)	857
Wal-Mart Building	155, 652
Source: Wal-Mart	

The proposed Wal-Mart building is a large oblong building of approximately 300 feet by 420 feet. The building floor elevation is about 33 feet above Mean Sea Level (msl) and the roof elevation is about 70 feet above msl.

The proposed building base would consist of light and dark shades of gray Orco block. The main building wall would consist of alternate layers of precision and split-faced block. The top of the building would be detailed with plaster panels, capped with a stepped block cornice. The entry vestibule would be constructed of masonry columns with a plaster finish. The roof would be finished with a standing seam metal roof and the storefront would also be finished with metal.
The Garden Center would be located at the northeastern corner of the proposed Wal-Mart building. The Garden Center would be a paved, fenced area with a roof covering that could be accessed from inside the store and through a gate directly adjacent to the main store entrance. A 10,000-square-foot area directly in front of the Garden Center would be used part of the year for seasonal outdoor sales.

The T.L.E. would be located on the north end of the Wal-Mart building and would be accessed externally and through the Wal-Mart building. Two lanes would enter the express station for tire servicing and one would be used primarily for "lube express." The T.L.E. would be a covered structure directly attached to the Wal-Mart.

The Wal-Mart development would also include a 7,200 square-foot container storage facility located behind the store, adjacent to the western property boundary. Space for storage would include up to 15 freight containers (measuring 8 feet by 8 feet by 40 feet long).

Development of Remainder of Project Site (Phase II)

Phase II would involve the subdivision and future development of the remaining 3 acres of the project site for industrial use at a Floor Area Ratio (FAR) of 0.35, consistent with the General Industrial *General Plan* designation and General Industrial zoning. Given the size and location of the Phase II area, the types of uses that would most reasonably be developed there include research and development. No specific development is proposed at this time; the land would be left in its existing state and sold and developed at some future date. For the purposes of this EIR, however, development of this part of the site is considered to be part of the project. Although the proposed project evaluated in the EIR was for industrial use, as an alternative the EIR also analyzed the proposed three parcels for commercial (retail) uses.

The applicant has indicated that construction of Wal-Mart store will start as soon as they receive the entitlements and construction would not be expected to be completed prior to 2004. Construction of Phase II will not occur until late 2004 and is expected to be completed by the second Quarter of 2005.

Plan Submittals:

Although the revised submitted plans are somewhat conceptual in nature, the plans provide sufficient information in regards to the site plan, architecture, grading and other information for action on the Conditional Use Permit. The applicant has agreed to make appropriate modifications to the plans to comply with City regulations, mitigation measures identified in the EIR and the Conditions of Approval. Implementation of those conditions and mitigations would not lead to a significant change in the underlying site plan.

Proposed Tentative Parcel Map: The applicant has submitted a Vesting Tentative Map which will be revised to re-subdivide the 16.6 acre parcel into parcel 1 (13.7 acres for the location of the Wal-Mart Store), parcel 2 through 4 (varying in size from 0.8 to 1.2 acres) for the development of other commercial or industrial uses. The size of parcels 2 through 4 is relatively small and could be used for the development of restaurant pads. Restaurants of 5,000 square feet or more are allowed in the General Industrial District through approval of a Zoning Administrator Permit. The type and size of parcels created for industrial development in this area (for example, on the other side of Osgood Road) are significantly larger than one acre. The G-I General Industrial zoning district allows a wide range of construction, manufacturing, transportation, wholesale and business services uses. Restaurants and several other retail uses allowed through a Zoning Administrator Permit may be appropriate for the smaller parcels; including: health clubs or spas; hotels and motels; automobile sound equipment sales and installations; and finance, insurance and real estate offices.

Project Analysis:

- **General Plan Conformance:** The existing General Plan land use designation for the project site is General Industrial with a Commercial-Industrial overlay. The Commercial-Industrial overlay as described in the General Plan recognizes that land with convenient freeway access presents a special opportunity for retailers with a regional customer base. (Policy LU 7.0) The types of retailers allowed include hardware stores, general merchandise stores, apparel and accessory stores, home furnishings, and eating and drinking places, as well as associated movie theaters, and other amusement, and recreation services.

  Goals and policies of the General Plan which the project could help implement, including the following:

  - *Fundamental Goal F-8 related to providing a diversity of shopping opportunities and to encourage commerce and industry.* The proposed project would bring a new store to the City and provide additional shopping opportunities to Fremont residents and those who work in the Industrial Planning Area.
  - *Policy LU 3.2 related to the allowed use of General Industrial areas which includes large-scale regional retail uses with convenient freeway access, where they are compatible with the purpose of the industrial area.* The proposed Wal-Mart would fit the definition of a large-scale, regional retail use which is convenient to I-680.
  - *Policy LU 3.3 related to allowing large-scale regional retail uses and requiring discretionary review to ensure that such uses can be served by the existing or planned roadway infrastructure and would not have a significant adverse impact on existing industrial uses in regards to parking requirements, traffic volume and other conflicts in operations.* Impacts of the proposed project on the roadway infrastructure and other systems have been discussed in the EIR and staff has determined that potential significant impacts would be mitigated to a less than significant level with the proposed roadway improvements.
  - *Policy LE 1.1.1 and 2.1.1. related to attracting new commercial and industrial businesses both in terms of providing a variety of jobs and generating revenues to the City.* A typical Wal-Mart store of this size would employ 250 to 300 people, with about 70 percent of these employed full time. In addition, such a store would generate approximately $350 per square foot in revenues. The jobs offered at Wal-Mart would require different types of employee skills than many high-tech jobs and would increase the number of service jobs available in the City.
  - *Policy LE 3.6.1 related to providing retail and commercial service areas in industrial areas to serve industrial employers and employees*. The proposal would provide shopping opportunities for the day-time population in the Industrial Area. This will provide an additional amenity for nearby employees and may reduce the number of trips, or the length of trips for people working in the area.

  Consistency with Commercial/Industrial Overlay: At the time the Commercial Industrial Overlay (allowing certain large-scale commercial uses on land designated for industrial development on the General Plan) was being considered for adoption, the City of Fremont and the Alameda County Congestion Management Agency performed several traffic model runs with different commercial development scenarios. The City of Fremont reviewed the results of the traffic demand analysis and concluded that the scenario that placed 500,000 square feet of retail space along the I-880 and I-680 corridor would not create a significant negative impact on the Congestion Management Plan routes in Fremont. The existing Fry's electronics store (144,000 square feet) and the approved Home Depot store (200,000 square feet including the associated retail development) account for 344,000 square feet. The proposed 155,652 square feet Wal-Mart store would bring the retail space created under the Commercial/Industrial overlay to just under 500,000 square feet.

- **Zoning Regulations:** The site is zoned G-I (F) and G-I, General Industrial, Flood Combining district. The proposed use is one of several retail uses allowed under a conditional use permit, where the project satisfies the following requirements: the use occupies at least fifty thousand square feet or is located in a shopping center with a total leasable area of one hundred and fifty thousand square feet; the use is oriented to the regional market; convenient access from the freeway is available; the proposed use would be compatible with existing industrial uses and would not impede future industrial development. The project meets the size criteria, is oriented to the regional market and has convenient access to the freeway. Regarding the potential to impede future industrial development, please see the section, above, **Proposed Tentative Parcel Map**, which discusses the potential for development of the remainder parcels (Parcels 2 through 4) as individual restaurant pads, which is allowed under the General Industrial district through a Zoning Administrator Permit, and the impact this may have on future industrial development.

  The (F) Flood Combining district is applied to approximately half of the site which is located within Zone "B" and Zone "AH" on the Flood Insurance Rate Map, (Community and Panel Number 0650280033 Federal Emergency Management Agency, dated May 2, 1983). The design of the project at the development stage will be required to meet criteria for such areas established by the Alameda County Flood Control and Water Conservation District.

- **Parking:** The site plan shows 709 parking spaces mostly on the east side of the Wal-Mart building between the building and Osgood Road. Required parking for the 156,652 store would be one space per 300 square foot or 522 spaces. Therefore, even with the loss of 36 parking spaces for a "seasonal outdoor sales" area for part of the year, the proposal provides adequate parking. A condition of approval has been added (Condition B-5 i.) to ensure that appropriately designed bicycle racks are installed in visible areas near the building entrance. A condition of approval will be included in the Tentative Parcel Map to require reciprocal parking and driveway easements for all four parcels. The site design also includes a merchandize pick-up area just north of the main entrance to the store. To comply with the new landscaping requirements, the applicant reconfigured the parking lot. This re-configuration has resulted in the creation of 238 or 33.5 % compact stalls. Additionally, to conform with the landscaping requirements, this area is delineated by a small landscaped island.

- **Circulation/Access Analysis:** The site is accessed from three entries: a northern driveway on Osgood Road allowing right turns in and right turns out; a main driveway on Osgood Road (signalized intersection) with two lanes in and two lanes out; and a third driveway onto Skyway Court. Truck access would generally be from the signalized entry and trucks would reach the truck dock on the northwest side of the site by traveling on the periphery of the parking lot. From the site, cars and trucks can access I-680 or I-880 via Osgood Road and Auto Mall Parkway. The three legged intersection is controlled with a stop sign on Skyway Court. With the eastbound left turn restriction, this intersection would operate at LOS A. Traffic turning left (north) onto Osgood Road would be directed to use the main signalized intersection. The staff report and the EIR have extensively analyzed the circulation and access issues and identified specific mitigation measures to reduce any possible traffic related impacts.

  To comply with Title 24 and to enhance pedestrian safety, staff is recommending that speed control devices be installed along the front entrance where there is no curb separating pedestrians from automobiles. Staff has identified three different types of speed reduction devices: 1) trunk headed domes, 2) speed bumps and 3) speed tables. Of the three devices indicated earlier, staff considers speed tables appropriate for the site and is recommending their inclusion (condition D-2 e). Walkways traversing parking lots shall be textured /scored instead of striped asphalt (Condition B-5 b).

  Pedestrian access is provided by sidewalks on Osgood Road and a pedestrian path extending from the main entrance on Osgood Road west to the store entrance through the parking lot. Pedestrian access is also provided along a sidewalk on Skyway Court which terminates in a pedestrian pathway extending to the Wal-Mart entrance. A condition of approval will be included in conditions for the tentative parcel map to require parcels 2, 3, and 4 to provide pedestrian paths on the periphery of the main parking lot.

As part of the EIR, a traffic study was prepared by Fehr & Peers Associates, Inc., Transportation Consultants. The study determined that the proposed change in land use from an industrial use to a high volume retail use will result in 7,925 daily trips, 226 AM. peak hour and 627 PM. peak hour trips to the surrounding roadways. The assessed Phase II Industrial/Commercial development is projected to add 575 daily trips, 65 AM peak hour trips and 60 PM peak hour trips to the surrounding roadways. Phase I and Phase II combined would add 7,925 daily trips, 225 AM peak hour trips and 630 PM peak hour trips.

If the site were developed with industrial uses at 0.35 FAR, it would generate 3,190 daily trips and 358 a.m. and 322 p.m. peak hour trips. The Wal-Mart project (consisting of 155,652 square foot retail store with the balance of the project site developed in industrial use) will generate 60% more daily trips, 49% more p.m. trips but 60% less a.m. trips than an all industrial project at the allowable FAR.

The impacts of traffic added by the project on the surrounding transportation systems were evaluated with level of service calculations for eleven major intersections (refer to the EIR for scope and analysis). Project-related traffic impacts at some of the major intersections would be significant. However, these impacts will be reduced to less-than-significant levels with the addition of lanes, intersection improvements and implementation of mitigation measures as identified in the EIR. The EIR has concluded that other traffic impacts as well as impacts related to site access, on-site circulation, parking, pedestrian access, cyclists and transit would be less than significant. A detailed analysis of the traffic study is presented in the EIR.

Conditional Use Permit Findings: According to Article 25, Conditional Use Permits, of the Fremont Municipal Code, in reviewing an application for a Conditional Use Permit, the Planning Commission shall make certain findings. The findings and staff comments on the consistency of the project are as follows:

(a) *The suitability and adequacy of the site for the proposed use.* The site is suitable and adequate for the proposed use because the site can accommodate the proposed building provide required parking, circulation and landscaping. Additionally, the use is suitable for a regional retail use because of its proximity to area freeways.

(b) *The estimated effect of the proposed use or design on vehicular (including bicycles) and pedestrian circulation, transit accessibility, and on the planned capacity of the roadway system and other public facilities or services.* As noted in the **Circulation/Access Analysis and in the EIR,** the estimated impact of the development on the roadway system has been thoroughly studied. The mitigation measures agreed to by the applicant will reduce traffic impacts to less than significant levels. The EIR has concluded that additional traffic will be generated by the proposed project. However, the proposed roadway improvements and the implementation of the mitigation measures will reduce the traffic impacts to less than significant levels. In terms of other public facilities or services, the proposed development will not have a negative impact.

(c) *The proposed use would not have a substantial adverse economic effect on nearby uses.* The proposed use is allowed with the approval of a conditional use permit and the retail use meets the criteria of the Commercial/Industrial overlay.

(d) *The proposed use would not have a substantial adverse impact on the general welfare of persons residing in the community.* The proposed site is in an Industrial District with Commercial Overlay designation and is at a considerable distance from residential development. Due in part to its distance, the project will not have any impacts on the residential development and the EIR substantiates this statement. Additionally, the use, properly regulated, would provide diverse shopping opportunities for Fremont residents.

(e) *The design of the project is compatible with existing and proposed development within the district and its surroundings.* The applicant has worked with staff to make improvements to the design of the building, site, and landscaping and staff believes it is consistent with existing surrounding industrial development. However, this type of “big box” retail is by nature large in scale, and requires a large field of parking.

(f) *Compliance with the provisions of Article 27 of this chapter.* Article 27 includes standards for site plan and architectural approval which this proposal meets.

(g) *The proposed use conforms to the General Plan land use designation for the site.* The use is consistent with the General Plan designation of the site, since the land use is conditionally permitted on General Industrial land within a Commercial/Industrial overlay.

Design Analysis:

- **Architecture**: According to the applicant's architect, the objective of the architectural design is to present a large retail building in a manner which softens the scale and mass of the building, blends with the neighboring industrial/R&D buildings, while maintaining the tenant's "retail image" to its customers. Multi-layered materials are used on all sides of the building. A split faced block is used to articulate the building's base, and alternate layers of precision and split-faced block articulate the main building wall. The top of the building is detailed with an E.I.F.S. (plaster panels) frieze band, capped with a stepped block cornice. The entry vestibule is constructed of masonry columns with a plaster finish. The gabled roof is finished with a standing seam metal roof.

  The layering or banding of materials provides a visual cue that reduces the perceived scale of the building, as do the trellis elements affixed to the east and south elevations. These elements provide a pedestrian scale in and around the entry vestibule, and opportunities to introduce landscaping which softens these public areas.

  The materials and colors selected for the building are appropriate to the aforementioned design character and architectural vernacular. The color palate consists of light and dark shades of gray with a blue accent color applied to the roof, the trellis and building wall. Darker colors will be used to articulate the building base and banding within the main building wall. Complementary colors will be used to accentuate the frieze/cornice area, with an accent color applied to the detailing within the frieze. Exterior doors will be painted with a color similar to but not matching, the building wall.

  The applicant has responded to staff requests to provide additional detailing on the building, and to break up the large wall surfaces. The applicant also added a wall accent color and changed the accent palate from a selection of browns to blues. This bolder color works better with the shade cloth used on the Garden Center fence. Landscaping (see below) is also used to soften the appearance of the building from the street and the parking lot.

  Planned Signing Program: The applicant has agreed to revise the submitted Planned Sign Program and work with staff to resolve sign related issues. The applicant has indicated that the new submittal will not include the slogan signs and will conform to the guide lines and specifications identified in Fremont Municipal Code Section. 8-22103. With the proposed changes, staff is confident that the applicant and staff can agree on signs that are appropriate to the site and conform to the guidelines identified in the Planned Sign Program section of the Zoning Ordinance. Should staff and the applicant not come to agreement, staff has the option of referring the sign program to the Planning Commission.

- **Landscaping:** The site is undeveloped and un-landscaped except for some boundary planting of pine and flowering pear trees (a total of 66 trees). According to the applicant's landscape architect, the proposed landscape plan consists of plantings designed to serve several functions, while creating a pleasant, attractive appearance that unifies the site and complements the neighborhood. The frontage landscape will be anchored by the existing pines and flowering pear trees. The only trees to be removed will be those that fall within existing driveways or sidewalks. Removal of trees will be reviewed with the City's landscape architect in the field during the development organization process. The ground plane will consist of turf along the back of the sidewalk for an attractive, consistent appearance, backed up with ground-cover and low flowering shrubs that will screen the parking while still allowing views of the site. Entries will be highlighted with flowering accent plantings.

  The parking lot will be planted with broad canopy type trees for shade and the perimeter drives will be delineated with flowering accent trees. In front of the building, small evergreen trees will be planted in pockets in the pavement, and vines will be planted on three trellises on the building façade. Two concrete benches will be placed between an "L"-shaped grouping of three trees. On the perimeter of the site,

evergreen hedges, vines and trees will be combined to create a heavy, layered screen effect. Plants in all areas have been selected for their tolerance to drought and adverse environmental conditions such as wind and heat.

Staff is generally satisfied with the conceptual landscape plan. The plan provides for substantially more trees than are required by ordinance and will enhance the appearance of the site and the proposed building. Trellises with flowering vines will help break up the scale of the retail building. The broad canopy shade trees in the parking lot will provide shade for cars and will soften the appearance of the building from the street. The vinyl-coated cyclone fence required to be installed at the north and west boundaries of the site, adjacent to the drainage channel will be planted with vines.

The elevations show three trellises with vines on the southern façade of the building. These were omitted from the conceptual landscape plan. Condition B-5 j. requires the installation of these trellises.

Storage on Site: The applicant has requested that some outdoor, on-site storage of freight containers be allowed. This storage is necessary for stocking and lay-aways during the Winter Holiday season. The site plan shows the location of the container storage area which will be screened from the railroad and from Research and Development facility (former Parcel 5) by a masonry wall and from Osgood Road by the main building and by additional landscaping at the end of the parking aisle. The conditions of approval (Condition G-6) limits the number of storage containers to 15 and limits the storage of containers to this area.

Existing Utility Easement: The previously approved Parcel Map 5447 for the site created 10-foot wide storm drain and sanitary sewer easements on the applicant's building site. These easements are also shown on the Wal-Mart Parcel, Parcel 1 of Parcel Map 7856, recorded November 21, 2001. The applicant will process an easement abandonment to remove both the storm and sanitary sewer easements and provide alternate easements and structures for the new storm drain and sanitary sewer lines.

Grading and Drainage: The topography of the site proposed for development is relatively flat with existing ground elevations ranging between 30 feet (above mean sea level) at the westerly limits to 40 feet at the easterly limits. The grading proposed for the site will include grading necessary to bring the curb grades and the building pads to the required elevations to provide positive drainage for the site. Additionally, the site is partially within a special flood hazard area as identified by FEMA. The proposed on-site grading will remove portions of the site from the special flood hazard area. See “FEMA Flood Zone” discussion below for more information regarding the flood-plain.

The Project Civil Engineer estimates grading quantities of 9,840 cubic yards of cut and 14,700 cubic yards of fill, for total estimated grading of 24,540 cubic yards. Approximately 4,860 cubic yards of fill material will be imported to the project site. The developer shall obtain a final grading permit prior to issuance of the building permit.

Drainage: Surface runoff from the Wal-Mart roof and parking area is directed to a combination of underground storm drainpipes, surface swales, and detention basins. The proposed storm drain inlets for the parking lot shall be provided with a filtering system or acceptable alternative to prevent contaminants from discharging into the existing flood control channels. The applicant shall provide the City with a maintenance program for any such filtering system. The owner shall be required to provide post-control methods and improve water quality subject to the approval of the State Regional Water Quality Control Board.

The drainage facility available to the site is the existing Alameda County Flood Control District’s Line J (Zone 6) located adjacent to the northern and southwestern corner of the site, and existing storm drain lines installed with Parcel Map 5447. Portions of the existing storm drain system, including pertinent easements, need to be relocated prior to construction of the proposed Wal-Mart. The design of the proposed storm drain system will be subject to the review and approval by the Alameda County Flood Control District and the City Engineer.

The project EIR has concluded that the proposed project would generate additional peak runoff as a result of the increase in impervious surface on the project site. However, the increase in the runoff would be minimal and the peak flow would differ from the timing of flow within Line ’E’ downstream of the project site. For the reasons identified in the Final EIR, the

increase in peak runoff would be less than significant. Additionally, the proposed project also results in the reduction of the ponding area on the site, portions of the site were identified as flooding areas by FEMA and the county. The loss of ponding volume could result flooding in Line 'E' downstream of the confluence with Line 'J'. This impact would be significant. However, provisions of on–site storage as a mitigation is considered feasible and would reduce the impact to a less than significant level.

Finally, implementation of standard City requirements, including the employment of Best Management Practices (BMPs) would prevent significant water-quality impacts during project construction. During project operation, the use of the site for retail commercial development could result in non-point source pollution to surface and ground water. Implementation of mitigation measures identified in the EIR would reduce the impact to a less than significant level.

Street Improvements: The required right-of-way for Osgood Road and Skyway Court has previously been dedicated by prior subdivisions and developments. Additionally, partial street improvements have been installed along Osgood Road and Skyway court. This project will complete the required street improvements on both Osgood Road and Skyway Court. Street improvements include, but are not limited to, installation of sidewalk, driveways, landscaping, streetlights, and fire hydrants. Additionally, the developer shall install a raised median in Osgood Road, between the Skyway Court and the end of the existing median, just south of the Osgood Road-Auto Mall Parkway Intersection.

FEMA Flood Zone: The western four hundred feet of the project site is located within the floodplain or a special flood hazard zone (zone AH) as defined by the Federal Emergency Management Agency (FEMA). In order to develop within the floodplain, all new structures must be built with the lowest floor at or above the base flood elevation or the structure must be flood-proofed to an elevation equal or greater than the base flood elevation. The applicant has proposed to raise the grade on site in order to bring the structures out of the floodplain. The finished floor for Wal-Mart is proposed at 32.7 feet, 1.7 feet above the base flood elevation.

By raising the grade on site, the applicant is removing land area from the floodplain. The applicant shall apply to FEMA for a letter of map revision (LOMR) in accordance with the Municipal Code and the National Flood Insurance Program. The effective date of the LOMR must be prior to building occupancy.

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

Riparian Corridor: The applicant shall provide adequate structural setback for all the improvements proposed adjacent to the northerly banks of and southwesterly banks of the District's Line J (Zone 6) flood control channel. The applicant will provide the Alameda County Flood Control District all the necessary cross sections for the creek bank as required by the District.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. Adopted regulations require discharges of storm water associated with new development and construction to submit a Notice of Intent (NOI) to the State of California for activities disturbing more than five acres of land. The NOI is to include the development and implementation of a storm water pollution prevention plan (SWPPP) emphasizing best management practices. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

The applicant is proposing a Garden Center and an outdoor sales area where plants and other landscaping materials will be stored. The water runoff from the Garden Center and the outdoor sales area should not discharge into the site's storm drainage system. The Garden Center and outdoor sales area will be provided with separate drainage system which will be connected to the sanitary sewer line. The drainage system will be subject to the approval of the Union Sanitary District.

Waste Management: This project involves commercial development and it shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. Any trash/recycling enclosure for the project shall be designed in a manner to be architecturally compatible with nearby structures and with the existing topography and vegetation in accordance with such standards.

Environmental Analysis: An Environmental Impact Report (EIR) has been prepared for this project. The EIR document consists of a Draft EIR (June, 2002, in two volumes, Volume I contains the analysis and Volume II is technical appendices), a Final EIR (November, 2002), Re-circulated Portions of the EIR (RPEIR)(December, 2002) and Final EIR/RPEIR (March, 2003). As described in more detail below, the Draft EIR analyzes the environmental impacts of the project and the Final EIR includes comments from various agencies and individuals and the response to those comments. Because of additional comments received prior to action by the Planning Commission, staff decided to re-circulate certain portions of the EIR for an additional comment period. The Final RPEIR responds to the additional comments received on those re-circulated portions, as well as responses to additional comments made on other sections of the EIR that was not re-circulated.

The environmental analysis identified concerns regarding potential impacts to air quality, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, and transportation/traffic. The EIR includes mitigation measures, which, if implemented would reduce the identified impacts to less than significant levels for all impacts with the exception of cumulative air quality impacts. All mitigation measures identified in the EIR have been included as conditions of approval for this project (Condition A-8). In order to approve the project despite the significant cumulative impact on air quality, the Planning Commission must first adopt a Statement of Overriding Considerations (Exhibit E). A more detailed description of the potential impacts is provided within the Environmental Impact Report, which has been sent to the Planning Commission as the Draft EIR, Final EIR, RPEIR and Final RPEIR under separate covers.

The attached Executive Summary provides a clear description of the proposed project and its potential environmental impacts. Table 2.0.1 "Summary of the Project Impacts" in the Executive summary could serve as an outline for the Planning Commission to initiate the discussion and evaluate the impacts of the project. The summary identifies each significant effect, and recommended mitigation measures and alternatives that would minimize or avoid potentially significant impacts. The summary also identifies areas of controversy known to the lead agency, including issues raised by agencies and the public, and issues to be resolved, including the choice among alternatives and whether or how to mitigate significant effects. This section focuses on the major impact areas of the proposed project.

The Draft EIR was circulated for a 45-day public review period, from June 28 through August 12, 2002, as required by CEQA. During this review period, the City of Fremont accepted written comments on the adequacy of the document. The Fremont Planning Commission held a public hearing August 8, 2002, to provide for the submittal of written or oral comments. Comments on the Draft EIR were submitted in writing by eight agencies, five individuals, and the project applicant. At the Planning Commission hearing August 8, three individuals, one agency and four of the Planning Commissioners commented.

The City prepared responses to all comments submitted on the Draft EIR, and published them in a Final EIR on November 27, 2002. After publication of the Final EIR, M.R. Wolfe & Associates (representing the United Food & Commercial Workers Union, Local 870 and others) submitted a letter dated December 8, 2002, arguing that the EIR should be re-circulated based upon alleged "significant" new information in the Final EIR. Although the City did not agree with the assertion that re-circulation was required, in order to thoroughly document the City's efforts to analyze the potential environmental impacts of the proposed project, and in an effort to provide reviewers additional time to evaluate the document, the City decided to re-circulate only those sections of the FEIR which could be considered new information, as described further in the Re-circulated Portions of the EIR (RPEIR). The City did not re-circulate the entire Draft EIR. (CEQA Guidelines Section 15088.5(g)). The 45 days comment period on re-circulation of the RPEIR started on December 27, 2002 and ended on February 11, 2003.

Staff received comments from State and local agencies and interested parties on the RPEIR. Staff and the consultant evaluated all the comments and prepared appropriate responses to the comments as required by CEQA. The Final EIR (March, 2003) includes a response to comment section that addresses the concerns raised by reviewers on the re-circulated portions of the EIR. Although not required, there is a section that responds to other comments as well. Finally, it includes amended portions of the EIR. The Final EIR including all sections (DEIR, FEIR, RPEIR and Response to Comments on the RPEIR) was released for public review on March 17, 2003.

Summary of Key Issues

Comments covered a variety of topics however, the most critical comments were on impacts related to air quality, drainage and land use.

Because many of the comments on the Draft EIR were about similar topics, the Final EIR addresses those comments through "topical responses," presented in Chapter 12 of the report. Each topical response includes a list of the comments covered by the response, as well as a brief summary of the comments. The Final EIR also includes responses to each written or spoken comment. Responses to each of the comment letters are presented after the letter; responses to the public hearing testimony are presented after the hearing transcript. Where a written or spoken comment is addressed in a topical response, there is a cross-reference to the topical response.

Some revisions to the Draft EIR have been made to respond to comments and to reflect new data that became available after the Draft EIR was prepared. Revisions to the Draft EIR are presented in Chapter 13,of the FEIR published in November 2002. Revisions to the RPEIR are presented in Chapter 14 and 15 of the Final RPEIR. Chapter 13 in the November 2002 EIR includes a revised Summary Table that includes project impacts and mitigation measures. The FEIR (responses to RPEIR) released in March 2003 contains two chapters, Chapter 14 and Chapter 15. Chapter 14 addresses comments related to the RPEIR, Although not required by CEQA, Chapter 15 responds to other comments staff received on non-recirculated portions of the EIR during the re-circulation period. .

The following summarizes some of the key comments and responses. As a general introduction to the following sections, staff notes that, as stated in CEQA Guidelines Section 15151, disagreement among experts does not make an EIR inadequate. EIR's are informational documents and "should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences". Staff believes that although there continues to be disagreement among experts, as described below, there is sufficient information for decision-making.

Planning Commission Findings. Planning Commissioners requested that their comments on the previously approved project (May, 2000) be addressed in the Final EIR. Each of the specific Planning Commission findings referred to by the commenters was addressed in the November, 2002 FEIR. In summary, the FEIR found that most comments from the Planning Commission related to land use policy and/or economic development, and not to physical impacts on the environment. Because EIR's are specifically intended to address impacts on the physical environment and not social and economic effects (CEQA Guidelines, Section 15131), while the Commissioners' comments may be relevant to the decision to approve or disapprove the Use Permit, no further response is required in the EIR.

BART Warm Springs Station and Specific Plan. The commenters expressed concern about the analysis of the future Warm Springs station in the Wal-Mart EIR. BART in particular stated that the Warm Springs Specific Plan process would be the best avenue for making a decision on the Wal-Mart project. The proposed BART Station is a little more than a half mile south of the proposed Wal-Mart Store on Warm Springs Boulevard. The City has proposed to prepare a Specific Plan to promote appropriate development near the BART station, but has not yet begun the planning process. Although the boundaries for the Specific Plan have not yet been identified, the planning area has been generally identified as extending for approximately a half mile from the station. The impact of a BART Station on a Wal-Mart (and vice-versa) generally relates to issues of traffic and land use compatibility. The Final EIR states that the traffic expected for the proposed Warm Springs BART Station was included in the cumulative traffic analysis (FEIR, page 12-0-16). In regard to land use compatibility, the proposed Wal-Mart is over a half-mile from the proposed Station and therefore outside of the

usual “walking-shed” of a BART Station. The FEIR explains that it would be speculative to analyze the Wal-Mart project in the context of a plan that has not been prepared (FEIR, page 12-0-9 – 12-0-10).

Traffic Analysis Assumptions and Methods. The commenters questioned the assumptions made for project trip generation and trip distribution, saying that the number of trips generated by the project was too low and that the number of trips using I-680 should be higher. The Final EIR explains that the trip generation rates were obtained from Institute for Transportation Engineers, the standard source for this information. The trip distribution assumptions incorporated information about existing Wal-Mart stores in the area. The Final EIR confirms that the assumptions and methods used for the analysis are valid.

Mitigation at Osgood and Auto Mall. The Draft EIR identifies several improvements at the intersection of Osgood Road and Auto Mall Parkway as mitigation for project traffic impacts. The commenters questioned the feasibility and effectiveness of these measures. Since the publication of the Draft EIR, the City has awarded a contract for the construction of these improvements. Construction started in late August and is anticipated to be completed by the end of May 2003. The improvements have been funded entirely by another developer as part of the conditions of approval for that other development project. As a result, the improvements will be in place prior to the Wal-Mart project and the project impacts at the intersection would be less than significant. This new data has been incorporated into the Final EIR (see Chapter 13). The Final EIR notes that the improvements would mitigate the project impacts, but that operations at the intersection would still be congested.

Air Quality Impacts. After the preparation of the air quality analysis in the Draft EIR, the air quality model was updated by Bay Area Air Quality Management District and new data has become available regarding the project construction schedule. The air quality analysis was updated for the Final EIR. The updated analysis shows that the project would not result in any project-specific emissions impacts. The project would still contribute to significant cumulative air emissions impacts. The Final EIR has been revised to reflect the updated analysis (the changes are presented in Chapter 13). Commenters on the RPEIR have indicated that because Saturday is the peak use time for a Wal-Mart it should be the basis for air quality impact assessments. The Final EIR/RPEIR (14.EA-33 – 14.EA-34) indicates that a weighted average would be a more appropriate basis for overall impact assessment, rather than using Saturday as the basis. While the project impacts fell below the threshold for what is considered an individually significant impact, the FEIR found that the project would contribute to a significant and unavoidable cumulative air quality impact when other reasonably foreseeable projects are taken into account.

Air Quality Mitigation Measures. The commenters requested that certain additional mitigation measures be considered for inclusion in the EIR. In addition, the applicant committed to implementing some of the measures identified in the Draft EIR, and rejected other measures. The Final EIR includes consideration of each of the measures mentioned by the commenters. As a result, several air quality measures have been added to the Final EIR, including implementation of a Commuter Check program and parking cash out program, and participation in the County’s guaranteed ride home program. These changes are presented in Chapter 13 of the Final EIR. Because the vast majority of traffic generated as a result of a Wal-Mart is customer traffic, and because the mitigation afforded by most air quality mitigation measures related to traffic are oriented toward workers who constitute a relatively small portion of all traffic, the effectiveness of most such programs is very limited in relation to a Wal-Mart. Nevertheless, where appropriate, mitigation measures will be required as described in the FEIR.

Health Risk Assessment. Dr. Phyllis Fox and Mr. Steven Radis submitted detailed comments on the assumptions and methods used for the health risk assessment. The Final EIR (Responses to Letter JH) includes detailed responses to their comments. Although some sensitivity analyses were conducted in response to certain comments, the conclusions of the health risk assessment that the diesel exhaust impacts would be less than significant remain valid. Staff believes that while experts may disagree on a variety of factors related to the health-risk assessment, sufficient information is in the record to allow for decision-makers to make a reasoned decision.

Project Storm Drain System. The commenters raised questions about the feasibility and effectiveness of the proposed detention basins. The Final EIR explains that the impact analysis in the EIR focuses on the loss of flood storage volume on the project site. Since the publication of the Draft EIR, the applicant has revised the project drainage plans to provide adequate flood storage, as required by Mitigation Measure Hydro-3. Our independent hydrology consultant has reviewed

the revised project plans and confirmed that the proposed detention would be adequate. Although the primary purpose of the detention is flood storage, it would also help to lessen the increase in peak runoff leaving the site.

Water Quality Mitigation. The commenters stated that the water quality measures in the Draft EIR are inadequate because they improperly defer mitigation. The Final EIR explains that the measures rely on a performance standard which the applicant will be required to meet. The performance standard will be the treatment standard that is currently in effect at the time of the project building permit. The EIR uses this approach because water quality treatment standards are continuing to evolve. The standard currently in effect in Fremont is the use of Best Management Practices (BMPs).. However, as discussed on page 12-0-45 of the FEIR, the Regional Water Quality Control Board was in the process of revising standards. Those new standards have recently been adopted for Alameda County. The City of Fremont will be revising its standards to respond to the new requirements and the project will be required to meet whatever standards are applicable at the time of construction.

Alternatives. The FEIR/RPEIR found that an alternative project with retail uses in Phase 2 would have a significant impact on air quality (page 14.EA-36 and page 6.0-12). Should the Planning Commission wish to allow for retail uses for Phase 2, a separate finding of over-riding consideration would be required for this impact. That finding is not included in the proposed findings at this time.

Conclusion: The final EIR responds to all the comments and staff recommends certification by the Planning Commission as being in compliance with the provisions of CEQA. Following Certification of the EIR, should the Planning Commission wish to approve the project, it must first adopt Findings and a Statement of Overriding Consideration (Exhibit E) in relation to the remaining significant air quality impact. It must also adopt a Mitigation Monitoring and Reporting Program (Exhibit F).

Enclosures:

1. Exhibit “A” (Conceptual Plans Site plan, preliminary grading and drainage plan, landscape plan, elevations).
2. PLN2000-00290 Fremont Wal-Mart Environmental Impact Report
   (**Note:** A copy of the Complete Final EIR was mailed to the Planning Commission on March 17, 2003---- please bring the copy to the meeting or request another copy).
3. Tentative Parcel Map.
4. Comprehensive Sign Program
5. Notice of Completion/Availability.
6. Wal-Mart Project Chronology of events
7. Exhibit “B” Findings and Conditions of Approval for Conditional Use Permit, PLN2000-00070
8. Exhibit “C” Findings and Conditions of Approval for Preliminary Grading Plan, PLN2000-00070
9. Exhibit “E” Findings and Statement of Overriding Consideration
10. Exhibit “F” Mitigation Monitoring and Reporting Program

Exhibits:	Exhibit “A”	Conceptual Plans: Site plan, preliminary grading and drainage plan, landscape plan, and elevations
	Exhibit "B"	Findings and Conditions of Approval for Conditional Use Permit, PLN2000-00070
	Exhibit "C"	Findings and Conditions of Approval for Preliminary Grading Plan, PLN2000-00070
	Exhibit “D”	Color and material board
	Exhibit “E”	Findings and Statement of Overriding Consideration
	Exhibit “F”	Mitigation Monitoring and Reporting Program

Recommended Actions:

1. Hold public hearing.

2. Certifythe Final Environmental Impact Report

3. Adopt the Findings and Statement of Over-riding Consideration in Support of the Final Environmental Impact Report.

4. Adopt the Mitigation Monitoring and Reporting Program

5. Find PLN2000-00070 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Local Economy Chapters. The project conforms to the goals and objectives of the Industrial Planning Area.

6. Approve PLN2000-00070 for a conditional use permit and preliminary grading plan, as shown on Exhibit “A”, and Exhibit “D” (color and material board), subject to findings and conditions on Exhibit “B”, and Exhibit “C”.

Exhibit "B"
FINDINGS AND CONDITIONS OF APPROVAL FOR
CONDITIONAL USE PERMIT PLN2000-00070
Wal-Mart Stores, Inc. Osgood Road and Skyway Court

FINDINGS

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated March 27, 2003, incorporated herein.

1. The site is suitable and adequate for the proposed use because the use will be conducted within a building or screened area, and the site can accommodate the building, parking, circulation and landscaping and the use is suitable for a regional use because of its proximity to area freeways.

2. The proposed use would not have a substantial adverse effect on traffic circulation, the planned capacity of the street system or other public facilities or services and the required roadway improvements are either funded by the City's Traffic Improvement Fee or are to be installed by the developer. Sufficient parking is provided, point of ingress-egress is properly located, and adequate fire fighting equipment access and facilities are available.

3. The proposed use would not have a substantial adverse economic effect on nearby uses because the use is allowed with the approval of a conditional use permit and the retail use meets the criteria of the Industrial/Commercial overlay.

4. The proposed use would not have a substantial adverse impact on the general welfare of persons residing in the community because the use, properly regulated and properly located on a site with both off-site and on-site circulation improvements, and ample on-site parking, would not create nuisances or degrade the environment, and would add to shopping opportunities for Fremont residents.

5. The design of the project is compatible with existing and proposed development within the district and its surroundings because the proposed project will develop the site with buildings and site improvements that are compatible with surrounding industrial and commercial development.

6. The use is consistent with the General Plan designation for the site, since the land use is a conditionally permissible retail use on property designated General Industry, Commercial-Industrial Overlay on the General Plan.

7. All public improvements or facilities required as a part of this approval are directly attributable to the proposed development, and are required for reasons related to public health, safety and welfare.

GENERAL CONDITIONS

A-1 Approval of this Conditional Use Permit, based upon conformance with the final Exhibit "A", Site Plan, Preliminary Grading Plan, Conceptual Landscape Plan, and Elevations as reviewed and approved by staff and all conditions of approval.

A-2 Approval of this Conditional Use Permit, shall be effective only after compliance with the requirements of Public Resources Code Section 21089, pertaining to payment of fees to the

California Department of Fish and Game, to be submitted with the Environmental Notice of Determination, due within five (5) working days after the project approval.

A-3 The applicant shall submit appropriate plans, in conformance with the adopted Building Code and Zoning Ordinance, to the Development Organization for review and approval within one year of the approval of the permit; otherwise, the permit approval shall lapse. Renewal for additional lengths of time may be considered upon application for a time extension prior to the expiration date of the permit.

A-4 If the Assistant City Manager finds evidence that conditions of approval have not been fulfilled or that the use has resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Director may refer the review of the permit to the Planning Commission at that time. If, upon such review, the Commission finds that any of the results above have occurred, the Commission may modify or revoke the use permit.

A-5 The project shall be subject to all City-wide applicable development fees. These fees may include, but are not limited to, fees for fire protection, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance.

A-6 Minor amendments to this Conditional Use Permit may be approved by the Assistant City Manager if it is determined the overall intent of the permit is fulfilled.

A-7 To minimize environmental impacts and to reduce the impacts, other than cumulative air quality impacts, to less than significant, the conditions of approval hereby incorporate all the mitigation measures as prescribed in the 'Fremont Wal-Mart Environmental Impact Report'.

A-8 The applicant shall install an electronic or other system to ensure that carts do not leave the parking lot. This shall be shown on the **Development Organization** review drawings.

A-9 A minimum of four cart storage areas shall be added to the parking lot. This revision shall be shown in the **Development Organization** review submittal.

Design and Landscaping

B-1 The location and design of buildings, roadways, parking areas, landscaping and walkways shall generally be provided as shown on Exhibit "A", except that minor revisions may be allowed subject to the approval of the Assistant City Manager.

B-2 The "seasonal sales area" shall not be permitted unless it is established within an enclosed or semi-enclosed area. The design of the enclosure shall be similar in quality and materials to that of the Garden Center and will be subject to review and approval of the Development Organization.

B-3 Cart collection areas/enclosures shall be provided within the parking field. Their design shall be subject to review and approval of the Development Organization.

B-4 All roof-mounted and other mechanical equipment shall be screened from view from adjacent public rights-of-way as well as from adjoining properties, subject to the review and approval of staff during the Development Organization review process.

B-5 The applicant shall continue to work with planning staff regarding the site plan and architectural detailing for the project. Final plans shall be subject to the review and approval of the Development Organization, and shall include the following elements:

a. Palette storage and recycling collection enclosure(s) will be required for the use. The design shall be architecturally integrated with the building design, and similar materials used. The final design and material selection shall be subject to review and approval by the Development Organization.
b. Walkways traversing parking lots shall be textured /scored instead of striped asphalt.
c. The applicant shall provide additional lighting and/or incorporate any existing lighting into the photometric study to be re-submitted with the **Development Organization** review drawings. The photometric study shall show a 1.5 fc minimum for all site areas. The applicant shall submit catalogue cuts of all exterior light fixtures with the **Development Organization** review drawings to be reviewed by planning staff. All lighting shall be directed down and shielded to reduce glare into adjacent residential neighborhoods. Lighting fixtures (wall packs) shall be architecturally integrated with the building design to reduce glare.
d. To avoid glare from spilling over on to the neighboring properties, the light poles installed in the parking lot shall not exceed 25 feet in height.
e. Exterior light poles cannot be placed in the area designated for landscaping.
f. The backside of the raised entry element shall be finished to the same level of detail (paint and materials) as the front side.
g. Striping to indicate a 20 foot minimum fire lane clearance shall be used at the rear of the site by the truck dock.
h. Markings to indicate the extent of storage unit placement shall be used at the rear of the site. No storage units shall be located outside of this designated area.
i. Parking for bicycles shall be located near the main store entrance in a visible and highly trafficked area. The location and design of the bicycle racks shall be approved by the Development Organization.
j. Three trellises with vines (similar to the design of trellises on the front façade) shall be located along the south façade of the building.

B-6 A detailed final landscaping plan based on the Conceptual Landscape plan (Exhibit “A”), shall be submitted to the Development Organization for review and approval by the City’s Landscape Architect, indicating full details regarding: (1) any paving materials and textures of walkways; (2) and proposed new plant materials, irrigation etc.

B-7 The applicant shall provide complete street frontage landscape design along Osgood Road. Landscape planting shall be 15’-0” wide and shall include trees, shrubs, and ground covers. In addition, this area shall be irrigated by a conventional irrigation system design.

B-8 The applicant shall provide tree root barriers on the planting plan for all trees within 8’-0” of paving, walls, curbing, or building foundations, with not tree closer than 2’-0” from curbing, paving or pier foundation walls.

B-9 All signs shall be in conformance with Sign Regulations, Article 21, Chapter 2, Zoning, of the Fremont Municipal Code and shall be subject to the approval of a Planned Sign Program (MIS2000-00308) which provides for an integrated sign package for Wal-Mart and future users of the remaining undeveloped parcels.

B-10 All lighting on the property shall be oriented or screened so as to prevent glare and direct light from reaching adjacent properties. Plans submitted to the Development Organization shall contain sufficient detail on the illumination devices proposed so that the effect of such lighting on the adjacent areas may be evaluated. The type of lighting fixtures, their heights, intensity and direction shall be clearly indicated. In addition:

a. Light fixtures within the garden center shall be mounted below the height of the screen walls.

b. Down lighting shall be provided for the pedestrian arcades and building entry areas.

c. Wall mounted fixtures on the sides of the buildings shall be spaced so as to be architecturally integrated into the building design. Fixture design should be a notch above the standard wall-pack model.

B-11 Along the front façade of the building and in the median adjacent to the merchandize pick up area, planting pocket size shall be increased to a minimum of 10 feet wide and tree size will be increased to a 48 inch box size Canary Island pine or other large specimen tree. The particular species and type of trees shall be subject to the approval of the City's Landscape Architect at the time of Development Organization review.

B-12 The applicant shall provide the City with a maintenance program for any such filtering system. The owner shall be required to provide post-control methods and improve water quality subject to the approval of the State Regional Water Quality Control Board (SRWQCB).

B-13 The developer shall install complete street improvements for Osgood Road and Skyway Court along the project frontage in accordance with the Street Rights-of-way and Improvement Ordinance. Required street improvements include, but are not limited to, installation of sidewalk, driveways, landscaping, signs, streetlights, and fire hydrants.

B-14 The developer shall install a complete raised median including back fill and finished surface paving for Osgood Road across the applicant's frontage. The configuration of the raised median shall be subject to review and approval by the City Engineer during Development Organization.

B-15 The applicant shall apply for an easement abandonment for the existing storm drain and sanitary sewer easements in conflict with the proposed building pad. The applicant shall provide alternate storm drain and sanitary sewer lines and the necessary utility easements.

B-16 The project plans shall conform with Title VIII, Chapter 8, Flood Damage Prevention, as well as the building standards of the National Flood Insurance Program. The plans shall be reviewed for conformance during Development Organization review of this project.

B-17 Prior to building occupancy, a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA) shall be received by the City. The applicant shall submit to FEMA the LOMR application, including relevant plans and studies, after sufficient site development has occurred to support the LOMR application.

B-18 All proposed improvements adjacent to the flood control channel banks shall conform to the setback requirements imposed by the Alameda County Flood Control and Water Conservation District.

B-19 Access to the project site along Osgood Road frontage shall be limited to two driveways. Upon further division of the property, no additional driveways will be allowed on to Osgood Road.

B-20 Access easements to any newly created parcels fronting Osgood Road shall be created within the project site by a future parcel map.

Air Quality/ Cultural Resources

C-1 To mitigate the identified temporary air quality impacts resulting from construction, the following mitigation measures should be incorporated into the project at the time a specific project is proposed: a) Water all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust; b) Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage; c) Paving shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed; d) Street sweeping shall be conducted to control dust and dirt tracked from the project site onto Skyway Court and Osgood Road; e) Limit traffic on unpaved roads to 15 m.p.h.; f) install sandbags or other erosion control measures to prevent silt runoff to public roadways; g) Hydroseed or apply non-toxic soil stabilizers to inactive construction areas; h) Replace vegetation in disturbed areas as soon as possible (within 15 days); Install wheel washers for all existing trucks; and, g) Designate a person to oversee the implementation of the dust control program.

C-2 The project will be required to have filters and screens installed, as appropriate, in accordance with Alameda County Health Department requirements to reduce the emission of any odors and particulates from cafe activities. Insofar as technically feasible, technical performance data on proposed odor-control equipment shall be supplied.

C-3 Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA, Guidelines, Section 15064.5 (e) and (f) will be followed to reduce impacts to a non-significant level.

Traffic/Circulation

D-1 The project shall be subject to payment of Traffic Impact Fees and all other applicable Impact Fees, as applicable, prior to issuance of building permits. The fees shall be calculated according to fee rates in effect at the time of building permit issuance.

D-2 In addition to the items identified below, the applicant shall incorporate traffic mitigation measures identified in the Fremont Wal-Mart Environmental Impact Report:

a. Install new traffic signal at the project main driveway, and link the new traffic signal to the existing interconnect on Osgood Road.
b. The applicant will make a lump sum payment of $38,100, equivalent to the present value of the estimated annual cost of maintenance and electricity over a 20 years period for the new traffic signal at the main driveway.
c. Install raised concrete median on Osgood Road between the existing raised median (near the intersection of Auto Mall/Osgood) and Skyway Court.
d. To reduce vehicular speeds, speed tables shall be installed at the entrance of the store. These speed tables should be installed at the main entrance of the store where there is no curb separating pedestrians from vehicles.

e. Egress from the secondary driveway, about 250 feet north of the main driveway, will be restricted to right turns only. Full access will be provided to the two Read Rite driveways on the east side of Osgood Road (across from the Wal-Mart site). A raised median and/or striping shall be installed to prohibit eastbound left-turn movements at Osgood Road and Skyway Court.

D-3 Precise geometrics and location of all driveways shall be subject to approval of the City Engineer prior to the acceptance of the Final Map.

D-4 The project applicant shall implement the following measures in the Wal-Mart to reduce Phase I-related air quality impacts.

- A carpool/vanpool program, including carpool ride-matching for employees and assistance with vanpool formation (1 percent to 4 percent of work trips);
- Construction of a bus stop in the project frontage of Osgood Road, to provide access via AC Transit Route 215 to nearby existing and future BART stations (0.5 percent to 2 percent of all trips);
- Provision of preferential parking for employee carpools (0.5 percent to 1.5 percent of work trips);
- Provision of secure, covered bike parking, with bike racks located in front of the store (0.5 percent to 2 percent of work trips);
- Provision of lockers if the demand arises; and
- Provision of direct, safe pedestrian access from Osgood Road to the store entrance (0.5 percent to 1.5 percent of all trips).

Water Quality

E-1 The applicant shall submit plans for permits to the Union Sanitary District, the Alameda County Water District, and the Alameda County Health Department and any other responsible agency. The applicant will be responsible for payment of any fees required by responsible agencies for the change in use.

E-2 Prior to the commencement of any site-work for the proposed development, the developer shall provide evidence that a Notice of Intent (NOI) has been submitted in compliance with the State of California Water Resources Control Board Order No. 92-08-DWQ, NPDES permit No. CAS000002.

E-3 The project plans shall identify Best Management Practices appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.

E-4 The developer is responsible for insuring that all contractors are aware of and implement all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP). Failure to comply with the approved SWPPP and the approved best management practices will result in the issuance of correction notices, citations, or stop work orders.

E-5 The trash enclosures shall be designed in the same manner as the building on the site, subject to the review and approval of staff during the Development Organization review process. Trash enclosures are to be designed to accommodate any City-mandated recycling facilities, subject to

review and approval of staff during the Development Organization review process.

E-6 The property owner is responsible for the maintenance of all landscaped areas, retention basins, and storm water treatment devices. Landscaping shall be designed with an efficient irrigation system to reduce runoff and promote surface filtration and to minimize the use of fertilizers, herbicides and pesticides that can contribute to urban runoff pollution.

E-7 The property owner shall be responsible for litter control and sweeping of all paved surfaces. All on-site storm drains are to be cleaned immediately before the commencement of the rainy season (October 15).

E-8 All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be approved by the City Engineer.

E-9 All trash and recycling areas are to be completely covered. No other area shall drain to the enclosed area. Drains in any wash area or process area shall not discharge to the storm drain. Drains should connect to the sanitary sewer subject to approval of the Union Sanitary District.

E-10 All loading dock areas are to be designed to prevent run off onto or from the area.

E-11 Outdoor storage areas are to be designed to minimize the runoff of pollutants.

E-12 Restaurants must be designed with contained areas for cleaning mats, equipment, and containers. This wash area must be covered or designed to prevent runoff onto or from the area. The area shall not discharge to the storm drain; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees must be instructed and signs posted indicating that all washing activities are to be conducted in this area. Sanitary connections are subject to the review, approval, and conditions of the Union Sanitary District.

E-13 Runoff from the Garden Center and the outdoor sales area shall not discharge into the site's storm drainage system. The Garden Center and the outdoor sales area will be provided with separate drainage system which discharge surface runoff to a sanitary sewer line. The drainage system will be subject to review, approval, and conditions of the Union Sanitary District.

<u>Health and Safety/Wildlife</u>

F-1 Hazardous Materials issues must be addressed through proper disposal and remediation prior to site preparation or development.

F-2 If required, a Hazardous Materials Permit and Management Plan (HMMP) for the facility shall be developed that reflects all aspects of the proposed project, and submitted to the Fire Department at the time of permit application. Approval of this plan by the City of Fremont Fire/Hazardous Materials Division will be required, with subsequent review and annual updates.

F-3 Construction activities shall be limited to the following hours:

Exterior:	6 a.m. to 10 p.m. Monday through Friday
	8 a.m. to 8 p.m. Saturday and Sunday
Interior:	No limit

Failure to comply with construction hours of operation will lead to withholding of inspections. A note to this effect shall be included on the construction plans and all contractors shall be made aware of this condition.

F-4 All exterior lighting during construction activities shall be shielded from neighboring properties and roadways. Hours of construction may be modified at the discretion of the Assistant City Manager.

F-5 No more than 30 days prior to any site preparation activity, a further site investigation shall be completed by a qualified wildlife biologist to determine the presence of burrowing owls. If burrowing owls are present, all work shall cease until the wildlife biologist has recommended appropriate actions, with which the California Department of Fish and Game agrees, to be taken to protect the owls. The applicant shall be responsible for the implementation of the protective actions, including relocation and any permits necessary from the Department of Fish and Game, prior to commencement of any site work. The site investigation shall be subject to the approval of the City. The project will be subject to payment of Fish and Game review fees.

F-6 Appropriate engineered designs in conformance with geotechnical standards for construction shall be used in order to address the defined seismic primary and secondary effects of ground shaking and liquifaction. The project should follow the recommendations of the Geotechnical Engineering Investigation prepared by Krazan & Associates in conjunction with this application.

Usage Parameters:

G-1 There shall be no exterior storage of garden materials over the height of the fence.

G-2 Garbage, recycling, palette storage shall be maintained within screened enclosures. If insufficient area has been planned, the City Code Enforcement Officer may direct additional areas be constructed subject to Development Organization approval.

G-3 Landscaping shall be maintained in a healthy and attractive condition. Dead and dying plant materials shall be replaced as needed.

G-4 Cart corals shall be maintained within the parking field. The original design and any replacements shall be subject to approval of the Planning Division.

G-5 Seasonal outdoor sales and outdoor activities shall be conduct only within the fenced area shown on the site plan. This condition does not apply to those temporary and seasonal uses governed by FMC § 8-22162.

G-6 A maximum of 15 storage units may be located in the designated area at the rear of the building. Storage units are not permitted in any other area of the project site.

G-7 Temporary lay-away areas are generally not permitted within 60 feet of the building. However, exceptions to this general rule may be made by Fire and Building Departments. The applicant shall submit temporary layaway area plans to Fire and Building Department for their review and approval.

G-8 The Wal-Mart parking lot shall not be used to host RV, boat, truck and similar vehicular shows.

G-9 C & D material may be recycled through any recycling company licensed to do business in Fremont. Recycling will cost less than disposing of the material as municipal solid waste.

G-10 The Development Organization plan check submittal for the Wal-Mart project PLN2001-00081 and BLD2001-1984 has expired and have been inactive for more than 365 calendar days. A new Development Organization application and plan submittal will be required reflecting the changes required by the EIR. Also, all plans, documents and calculations must be updated to reflect the currently adopted 2000 California Building Codes, State of California Title 24 regulations, and City ordinances.

Fire Prevention:

H-1 The applicant shall install an automatic fire sprinkler system in the building for fire protection purposes. Water-flow and control valves must be monitored by a central alarm monitoring system and Central Station, except single family dwellings. The monitoring system shall have a smoke detector placed over the fire panel, a pull station, and an audible device located in a normally occupied location.

a) Indicate on plan sheet

H-2 Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A. 13

a) Indicate on plan sheet

H-3 All Automatic Fire Suppression Systems Fire Department Connections shall have an address placard installed at the connection.

a) Indicate on plan sheet and as condition on underground submittal. Provide detail for approval.

H-4 All Fire Department Connections shall have a Knox Cap installed on every inlet.

a) Indicate on plan sheet and as condition on underground submittal

H-5 Prior to installation, plans and specifications for the underground fire service line must be submitted to the Fremont Fire Authority and Building Department for review and approval. Please include cathodic protection or soils report stating why protection is not required. Standard Required: N.F.P.A. 24 and N.F.P.A 14

a) Indicate condition on plan sheet and on fire underground plans

H-6 The applicant shall provide the Fremont Fire Department with a site plan/ Civil Utility Plan for approval of public and on-site fire hydrant locations.

a) Indicate on plan sheet for approval
b) Indicate blue bott dot / pavement marker location.
c) Indicate on sheet the location of fire department connection for approval.

H-7 The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.

a) Indicate on plan sheet.

H-8 The applicant shall provide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. UFC 902.2.1.

a) Indicate on plan sheet

H-9 The applicant shall provide required fire flow (hydrants) on site prior to construction or storage of combustible materials. U.F.C 903.2 & Appendix IIIA. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.

a) Indicate on plan sheet

H-10 The applicant shall have a key box (Knox brand) located outside of building/gate and provide keys to the Fire Department so they may gain access. Vehicle gates may use Knox lock or keyed over-ride switch. Application can be obtained at Fire Administration office, 39100 Liberty Street, Fremont.

a) Indicate condition and location on plan sheet

H-11 The applicant shall install Fire alarm system as required. The system must be monitored. The system must be N.F.P.A. 72 compliant and have an interior audible device per the U.F.C. Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont, Fire and Life Safety Inspector. Fire alarm systems devices shall be addressable and report to the Central Monitoring Station addressable.

a) Indicate on plan sheet

H-12 Address must always be visible from Public Street. Flag lots must have monument sign and green bott dot.

a) Indicate size and location on plan sheet

H-13 Any/all new street names and addressing shall be approved by the Fire Department.

H-14 A driveway access serving a structure shall have a minimum 20 foot unobstructed width driveway/access road. The access road must provide all portions of the first floor with the required 150 feet access to the rear of the building. These driveways/access roads shall be designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. Other mitigation's shall/may be required in addition to those listed.

a) Please indicate on plan sheets that planters at the end of parking fields are painted red The main drive aisles shall serve as fire lanes. Please indicate on plan sheets they will be painted red, with lettering on top of curb," No Parking Fire Lane" every 30 feet. These areas shall also have signs posted every 100 feet

indicating no parking fire lane.

EXHIBIT "C"
FINDINGS AND CONDITIONS OF APPROVAL –
PRELIMINARY GRADING PLAN PLN2000-00070
Wal-Mart Stores, Inc. Osgood Road and Skyway Court

FINDINGS:

The City of Fremont City Council makes the following findings:

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.

2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the development. A soil study will be done and submitted to the City prior to issuance of permits.

3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.

4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished prior to issuance of the final grading permit at time of final map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.

5. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

Conditions of Approval:

1. The project shall conform with Exhibit "A" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Conditional Use Permit (PLN2000-00070).

2. Approval of this preliminary grading plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.

3. Approval of this preliminary grading shall terminate 24 months from the date of approval by the Planning Commission.

4. The developer shall obtain a final grading permit prior to issuance of the building permit. Grading shall be subject to the approval of the City Engineer.

5. Prior to issuance of any grading permit for this site, the developer shall revise the proposed grading and drainage system to incorporate additional mechanisms on-site for treatment of storm water runoff. Potential mechanisms include, but are not limited to, creating additional grassy

swales (bio-swales), micro-detention basins, wet ponds, dry ponds, and underground water treatment systems. The revised grading and drainage system shall be subject to review and approval of the City Engineer.

6. The developer shall provide for a functional drainage system subject to approval of the City Engineer and Alameda County Flood Control and Water Conservation District. The applicant shall prepare a hydrology study for the site, subject to review and approval by Alameda County Flood Control and the City Engineer. In the event the study indicates that runoff from the site will cause flooding in the areas adjacent to Line E Zone 6 upstream of the point of confluence of Lines E and J, Zone 6, then the applicant will be required to mitigate the flooding by providing a detention basin on site or alternative mitigation acceptable to Alameda County Flood Control and the City of Fremont. On site storage as mitigation contained in the project EIR shall be provided as part of the drainage system. The review and approval of the drainage system will occur during the Development Organization review prior to the issuance of grading or building permits.

7. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.

8. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.

9. The applicant shall provide for a functional system to control erosion and siltation during and after construction subject to review and approval by the City Engineer and Alameda County Flood Control and Water Conservation District. A separate erosion and sediment control plan shall be submitted for this purpose.

10. All cut and fill slopes shall be constructed to a maximum of three horizontal to one vertical (3:1).

11. The applicant shall submit a detailed soils report including recommendations regarding structural sections, prepared by a qualified soils engineer registered by the State of California.

12. Grading operations shall be in accordance with recommendations contained in the required soils report and be supervised by an engineer registered in the State of California to do such work. City staff will assume inspection responsibility for street grading at a point six inches below planned subgrade.

13. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.

14. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission subject to approval of the City Engineer.

EXHIBIT "E"

FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS IN SUPPORT OF CERTIFICATION OF FINAL ENVIRONMENTAL IMPACT REPORT FOR THE FREMONT WAL-MART PROJECT.

PROJECT DESCRIPTION: The approximately 16.6-acre project site is located in the City of Fremont, between Interstate 880 (I-880) and Interstate 680 (I-680). The site is approximately one-fourth mile southwest of the intersection of Osgood Road, which parallels I-680, and Auto Mall Parkway. The Final Environmental Impact Report (Final EIR) prepared for the Fremont Wal-Mart Project addresses the development proposed in the requested approval of a Preliminary Grading Plan, a Vesting Tentative Parcel Map, an Easement Abandonment, and the issuance of a Conditional Use Permit and other required permits. With these approvals, the project applicant would construct an approximately 300 foot by 420 foot Wal-Mart building on about 13.6 acres of the site. The remainder of the site would be subdivided into three parcels, and would be available for future industrial development. The project site is currently vacant land, but was previously used intermittently for agriculture.

The Fremont Wal-Mart Project Final EIR identified significant impacts associated with development of the project. Adoption of a project with significant impacts requires that findings be made by the City of Fremont, the lead agency, pursuant to CEQA. The significant impacts of the Fremont Wal-Mart Project would: I) be mitigated to a less-than-significant level with mitigation measures identified as part of the Final Environmental Impact Report; or II) be unavoidably significant, thus requiring a Statement of Overriding Considerations.

I. EFFECTS THAT CAN BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL WITH MITIGATION MEASURES IDENTIFIED AS PART OF THE FINAL ENVIRONMENTAL IMPACT REPORT

The following significant impacts would be mitigated to a less-than-significant level with mitigation measures identified in the Final Environmental Impact Report and are included below as part of the Statement of Findings document. The numbering of mitigation measures presented herein corresponds to the numbering used in the Final EIR.

Air Quality

1. **Impact AQ-1a: Construction Emissions of PM_{10}. The applicant has indicated that the project construction period would be about six months. Although the project's construction-related emissions would be temporary in duration, in the absence of control measures, they could be substantial. If grading occurs during fall or winter months, exhaust emissions of PM_{10} could contribute to violations of the State 24-hour ambient standard on certain days.**

   The City of Fremont finds that as to such significant effect identified above:

   Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

   This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the following mitigation measures:

Mitigation Measure AQ-1a:

Construction Dust Measures

In accordance with the *BAAQMD CEQA Guidelines*, the project applicant shall require the construction contractor to implement the following dust control measures, as applicable, during all proposed project construction activities.

Basic Control Measures

- Water all active construction areas at least twice daily (with recycled water, if possible);
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;

Enhanced Control Measures (applicable because construction area is more than four acres)

- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive ten days or more);
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
- Limit vehicle speeds on unpaved roads and over disturbed soils to 15 miles per hour during construction;
- Replant vegetation in disturbed areas as quickly as possible (within 15 days of completion of construction in the area);

Install sandbags or other erosion control measures to prevent silt runoff to public roadways, as required by National Pollutant Discharge Elimination System (NPDES) Control Measures;

Optional Control Measures (BAAQMD encourages implementation of these measures at sites that are large or located near sensitive receptors)

- Install wheel washers for all exiting trucks or wash off the tires or tracks of all trucks and equipment leaving the site;
- Install wind breaks, where necessary, at the windward side(s) of construction areas; and
- Limit the area subject to excavation, grading, and other construction activity at any one time.

Construction Exhaust Measures

If project grading occurs in May through August, construction exhaust emissions would be less than significant and no additional mitigation would be required.

Otherwise, the project applicant shall require the construction contractor to implement one or more of the following measures to reduce construction exhaust emissions of PM_{10} from off-road equipment during project grading. The measures implemented must reduce emissions of PM_{10} by at least 61 percent.

- Limit the hours of grading each day. The emissions reduction would depend on the extent grading is limited, and would be directly proportional to the percentage of the time grading is reduced;
- Use PuriNO_x or other fuel additive to minimize air pollutant emissions. Use of PuriNO_x would reduce exhaust particulate emissions by an average of about 54 percent, based on available data;
- Use ultra-low-sulfur fuel (with low sulfur and low aromatic content). It is estimated that ultra-low-sulfur fuel would reduce particulate emissions by about 25 to 30 percent; and
- Use PM_{10} particulate traps. Use of traps would reduce emissions by about 75 to 80 percent.

Hydrology and Water Quality

1. **<u>Impact Hydro-3: Loss of Flood Storage Volume.</u> The loss of about 67,200 cubic feet of flood storage volume resulting from the project could cause flooding in the immediate area of the confluence of Line J and Line E, and reaches downstream of the confluence.**

   The City of Fremont finds that as to such significant effect identified above:

   Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

   This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the following mitigation measures:

   <u>Mitigation Measure Hydro-3:</u> Prior to the issuance of building permits associated with the use permit for the project, the applicant shall revise the project site plans to compensate for the loss of flood storage volume. The loss of about 67,200 cubic feet of flood storage could be feasibly replaced through the construction of an equal volume of water retention on site. Since the publication of the Draft EIR, the applicant has submitted a revised drainage plan to meet the flood storage requirement. The revised drainage plan shows a combination of above-ground and below-ground storage below elevation 30. This includes, three detention ponds within the north parking lots and oversized underground storm drain pipes. These three facilities and proposed connecting and collection drain pipes within the site would provide at least 67,200 cubic feet of storage below elevation 30.0 feet. The applicant is required to revise the plans in accordance with condition 6 of Exhibit C.

2. **<u>Impact Hydro-4: Degradation of Water Quality.</u> Degradation of the water quality of both surface water and groundwater may occur during the construction and operational phases of the project. Specific design details for the detention basins have not been submitted by the applicant. Surface flow directly into the detention basins may contain pollutants, including petroleum products, originating from the parking area, driveway, loading dock, and automotive service area. If the proposed basins and other Best Management Practices (BMP) devices are not designed or maintained properly, pollutants could affect both surface water and groundwater.**

   The City of Fremont finds that as to such significant effect identified above:

   Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

   This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the following mitigation measures:

   <u>Mitigation Measure Hydro-4a:</u> The design of the detention basins, inlet filters, grease interceptors and associated BMP devices shall be submitted for approval to the City. Information detailing the effectiveness of each of the BMP features in preventing pollutants from infiltration into the groundwater and from discharge to Line J must also be submitted. The BMPs shall be

designed, constructed and maintained to meet the performance standard in effect at the time the building permit for the project is issued. The applicant is required to comply with Condition E-2 as identified in Exhibit B. If the treatment system proposed at that time does not meet the governing performance standards, the applicant shall implement additional structural BMPs to mitigate post-development stormwater flows, in consultation with the City.

Mitigation Measure Hydro-4b: The applicant shall submit a monitoring/maintenance plan for the BMP devices to the City for approval, as appropriate for each BMP. Maintenance and monitoring activities shall include (but not be limited to) initial setup, scheduled maintenance, and scheduled monitoring in perpetuity. Information detailing the minimum frequency of such maintenance activities must also be submitted. If the applicant proposes to use stormwater inlet filters, the applicant shall show how the filter material and the pollutants collected in the filters will be disposed of, and shall outline maintenance responsibilities and schedule.

Mitigation Measure Hydro-4c: The applicant shall retain a qualified professional to maintain the on-site BMP devices during the operational phase of the project, as appropriate for each BMP. The professional shall submit annual maintenance reports detailing completed maintenance activities and potential water quality problems to the City.

Mitigation Measure Hydro-4d: Prior to approval of the Final Map associated with the use permit for the project, the applicant shall submit information documenting (or revise the project plans as necessary to show) that the project landscaping and irrigation system have been designed to minimize water use, promote surface filtration, and minimize the use of fertilizers, herbicides, and pesticides. The applicant shall also submit a project-specific integrated pest management (IPM) program for approval by the Assistant City Manager.

3. **Impact Hydro-6: Cumulative Impacts. Together with other projects planned for in the City of Fremont and the County of Alameda, construction of the proposed development could potentially contribute to cumulative hydrologic and water quality impacts.**

   The City of Fremont finds that as to such significant effect identified above:

   Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

   This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the above-identified project-specific measures. That is, the project contribution to the cumulative loss of flood storage volume would be mitigated by implementation of

   Mitigation Measure Hydro-3: To minimize cumulative impacts, the drainage plan and SWPPP would include control measure BMPs to prevent surface runoff from inducing erosion at and downstream of discharge points, and maintain water quality of runoff and percolate. When combined with the project-specific mitigation measures identified above (**Mitigation Measures Hydro-4a** through **- 4d**), regulatory requirements and guidelines, such as those associated with the NPDES permitting program and the San Francisco Basin Plan, would serve to minimize or avoid potentially adverse cumulative water quality impacts of grading and conversion to urban uses. (Condition E-3 and E-4 in Exhibit B).

Geology, Soils and Seismicity

1. **Impact Geo-3: Erosion. Soils exposed to wind and water erosion could create sedimentation in the drainage adjacent to the site. The applicant would be required to submit an erosion control plan in compliance with Title VIII, Chapter 4 of the Fremont Municipal Code, and the City Engineer would have the authority to review and approve the plan. However, the**

applicant has not developed such a plan at this time. For that reason, the potential impacts related to erosion would be significant.

The City of Fremont finds that as to such significant effect identified above:

Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the following mitigation measures:

Mitigation Measure Geo-3: Prior to the start of grading for the project, the project applicant shall develop an erosion control plan and submit it to the City for approval. The plan shall be prepared in accordance with Title VIII, Chapter 4 of the Municipal Code. The plan shall require that construction personnel implement all relevant measures of the plan during earthmoving and other construction activities. The plan may include, but shall not be limited to, the following measures:

1. Earth moving activities shall be restricted to the dry season and erosion protection measures shall be provided for each project prior to the onset of winter rains.

2. Soil stockpile areas shall be designated on the construction plans and soil stockpiles shall be covered and protected by a plastic membrane during the rainy season.

3. Disturbed areas shall be revegetated, utilizing such measures as planting of native grasses, plants and shrubs and the installation of jute netting and hydroseeding in areas of more difficult revegetation.

2. **Impact Geo-4: Geology/Soils Instability. The Krazan report, the geotechnical report prepared for the project, notes several issues related to the moisture content of site soils. Soils that become very moist (as the result of improper construction and drainage, for example) can become unstable, and thus present hazards for proposed structures.**

   The City of Fremont finds that as to such significant effect identified above:

   Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

   This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the following mitigation measures:

   Mitigation Measure Geo-4: The project developer shall implement all of the recommendations in the September, 1999 Geotechnical Investigation prepared by Krazan & Associates, Inc. Recommendations relevant to mitigating impacts related to unstable soils include, but are not limited to, the following:

   - Winterization, consisting of placement of aggregate base and protecting exposed soils from saturation during the construction phase, shall be performed.
   - The upper 12 inches of the surface soils shall be moisture conditioned and recompacted.
   - The ground surface shall slope away from building pad and toward appropriate drop inlets or other surface drainage devices. It is recommended that adjacent exterior grades be sloped at a minimum of 2 percent for a distance of at least 10 feet from the building. Subgrade soils in pavement areas sloped at a minimum of 1 percent and drainage gradients shall be maintained to carry all surface water to collection facilities and off-site. These grades shall be maintained for the life of the project.

3. **Impact Geo-5: Presence of Expansive Soils. The Krazan report indicates that the clayey surface soils at the project site have high expansive characteristics, and will be subject to**

changes in volume as the moisture content changes. If not designed properly, the proposed structures could be subject to hazards, such as differential movements of foundations and building slabs.

The City of Fremont finds that as to such significant effect identified above:

Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the following mitigation measures:

Mitigation Measure Geo-5: The project developer shall implement all of the recommendations in the September, 1999 Geotechnical Investigation prepared by Krazan & Associates, Inc. Recommendations relevant to mitigating impacts from expansive soils include, but are not limited to, the following:

- As an alternative to importing non-expansive fills, the upper 2.5 feet below the building pad subgrade can be on-site, lime-treated material. The project applicant has indicated that this is the proposed approach.
- Structural foundations shall be designed to meet the soil bearing pressures outlined in the Krazan report. The footings shall have a minimum depth of 24 inches below pad subgrade or adjacent exterior grade, whichever is lower. The footings shall have a minimum width of 12 inches.

4. **Impact Geo-6: Cumulative Impacts. Without mitigation, impacts related to erosion could be cumulatively significant if they caused increased sediment in area streams or increased fugitive dust emissions.**

The City of Fremont finds that as to such significant effect identified above:

Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the above-identified project-specific measures for erosion. That is, for erosion, the project-specific measures identified above (see **Mitigation Measure Geo-3**) would also mitigate the project's contribution to the cumulative impact.

Hazards

1. **Impact Hazards-1: Potential Threats to Persons or the Environment from Existing Contamination. The potential to encounter soil contamination during site preparation activities and expose persons or the environment to this contamination is considered a potentially significant impact.**

The City of Fremont finds that as to such significant effect identified above:

Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the following mitigation measures:

Mitigation Measure Hazards-1a: Prior to any construction-related activities on the project site, the project applicant shall update the 1999 Phase I Environmental Site Assessment to reflect the latest information available in federal and State agency databases, as well as an updated reconnaissance of

the project site. If the updated information indicates that contamination could be present within the project site, the applicant shall conduct sampling and analysis in the area(s) of potential concern. If contamination is found, the applicant shall remediate it as described in Measure **Hazards-1b**.

Mitigation Measure Hazards-1b: If contaminated soil is encountered during the course of site grading and excavation activities, the construction contractors shall stop work and contact an environmental hazardous materials professional to conduct an on-site assessment. If the materials are determined to pose a risk to the public or construction workers, the construction contractor shall prepare and submit a remediation plan to the County of Alameda Department of Environmental Health or other appropriate agency and comply with all federal, state, and local laws and regulations. Soil remediation methods could include excavation and on-site treatment, excavation and off-site treatment or disposal, and/or treatment without excavation. Construction plans shall be modified or postponed to ensure construction will not inhibit remediation activities and will not expose the public or construction workers to hazardous conditions.

2. **Impact Hazards-4: Cumulative Impacts. Due to previous agricultural uses, there could be significant project-related impacts if contamination is encountered or released to the environment during project construction. Construction of the future development and cumulative projects could therefore expose persons and/or the environment to hazardous materials.**

   The City of Fremont finds that as to such significant effect identified above:

Changes or alterations have been required in, or incorporated into, the project which would avoid or substantially lessen the significant environmental effects thereof as identified in the EIR.

This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the above-identified project-specific measures. That is, implementation of remediation for individual projects as they are developed (see **Mitigation Measures Hazards-1a** through **–1b**) would reduce potential cumulative impacts related to contamination to a less-than-significant level.

II. EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

The following significant impact would not be mitigated to a less-than-significant level, even with the implementation of the identified mitigation measures that are set forth below. In addition to the specific findings noted below, the City of Fremont has determined that specific economic, legal, social, technological, or other considerations make infeasible the project alternatives identified in the Final EIR. A discussion of project alternatives is provided in Section III of this document.

The City of Fremont has determined the impact identified below is acceptable because of overriding economic, social or other considerations, as described in the Statement of Overriding Considerations. As required by CEQA (*Guidelines*, Section 15093), the Statement of Overriding Considerations is presented in addition to these Findings.

Air Quality

1. **Impact AQ-8: Cumulative Impacts: Operational Emissions. For a project that does not individually have a significant air quality impact, the BAAQMD recommends that a determination of cumulative impact be based on an evaluation of the consistency of the local general plan with the regional air quality plan, and of the proposed project with the local general plan. The EIR found that the proposed project would not have an individually significant air quality impact based upon the seven day weighted average for calculating trip**

generation. Therefore, the cumulative impact was determined based on the procedures recommended in the *Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines*.

The *Guidelines* sets forth four tests for determining whether a general plan is consistent with the Clean Air Plan (CAP):

1. **General plan population projections are consistent with CAP and Association of Bay Area Governments (ABAG) projections;**

2. **Rate of increase in vehicle miles traveled (VMT) does not exceed rate of increase in population;**

3. **General plan implements CAP transportation control measures; and**

4. **General plan provides buffer zones around sources of odors, toxics and accidental releases.**

With regard to the first test, the population projections in the Land Use Element of the Fremont *General Plan* are based on 1990 actual data, and extend to 2005. According to the Land Use Element, those projections are taken directly from ABAG Projections '90. In addition, the General Plan Housing Element, which was adopted by the City in February 2002, is based on ABAG projections.

With regard to the second test, the *General Plan* does not contain information on existing or projected VMT. The City traffic model is based on zones, with peak hour traffic projected by land use, and does not generate information on VMT. The Metropolitan Transportation Commission (MTC) does not have any sub-county-level estimates of VMT. The traffic model used by the Alameda County Congestion Management Agency can provide sub-county estimates of VMT for 1990, 2005 and 2025, but obtaining the information is not straightforward. Therefore, no conclusion can be made with regard to relative increases in VMT and population.

With regard to the third test, a review of the *General Plan* indicates that there are a number of policies that support transportation control measures. The policies contained in the *General Plan* cover almost all of the local transportation control measures from the CAP.

With regard to the fourth test, there are at least two *General Plan* policies related to the interface between sensitive receptors and sources of toxics. In addition, the City has zoning restrictions on sources of toxics and buffer requirements for uses with odors.

The results of the four tests indicate that with respect to three of the tests, the *General Plan* could be considered consistent with the CAP, and with respect to the VMT test, no conclusion can be made.

The *BAAQMD CEQA Guidelines* provides a second means of analyzing the cumulative impact, by analyzing the project together with other reasonably foreseeable projects. Under this approach, if any one of the pollutant thresholds is triggered, the project would have a significant cumulative impact on operational emissions. Given that the proposed project itself would generate emissions of ROG that would be several pounds below the BAAQMD threshold, and that reasonably foreseeable development in the project area could include as much as 9.4 million square feet of industrial and commercial uses, it is clear that the project would have a significant cumulative air quality impact.

The City of Fremont finds that as to such significant effects identified above:

Changes or alterations have been required in, or incorporated into, the project which would lessen the significant environmental effects thereof as identified in the EIR, but such effects would continue to be considered significant.

This finding is based on the fact that the City of Fremont shall adopt and require the project developers to implement the following mitigation measures:

Mitigation Measure AQ-8: The project applicant has proposed to include the following measures in the Wal-Mart to reduce Phase I-related air quality impacts. The City shall include implementation of these measures as conditions of project approval, and shall monitor the measures to ensure that they have been implemented.

- A carpool/vanpool program, including carpool ride-matching for employees and assistance with vanpool formation (1 percent to 4 percent of work trips);
- Construction of a bus stop in the project frontage of Osgood Road, to provide access via AC Transit Route 215 to nearby existing and future BART stations (0.5 percent to 2 percent of all trips);
- Provision of preferential parking for employee carpools (0.5 percent to 1.5 percent of work trips);
- Provision of secure, covered bike parking, with bike racks located in front of the store (0.5 percent to 2 percent of work trips);
- Provision of lockers if the demand arises; and
- Provision of direct, safe pedestrian access from Osgood Road to the store entrance (0.5 percent to 1.5 percent of all trips).

In addition, Wal-Mart and the occupant(s) of the remainder of the project site shall implement the following measures (per Table 15 of the *BAAQMD CEQA Guidelines*) to the extent feasible in order to reduce operational emissions related to vehicles traveling to and from the site. The City shall include these measures as conditions of project approval, and shall monitor the measures to ensure that they have been implemented.

The list of measures was developed with the specific project and location in mind. Some potential measures in the *BAAQMD CEQA Guidelines* were rejected because they would not apply to a project that generates primarily retail customer trips, and/or they would not be effective in an area that consists primarily of industrial and big-box retail uses. The BAAQMD rates each measure's potential effectiveness in reducing vehicle emissions; these rates are noted following each measure.

- Phase II employers shall coordinate participation in the carpool/vanpool program to be developed by the project applicant, or shall implement their own program (1 percent to 4 percent of work trips;
- As part of Phase I or Phase II, consider provision of on-site child chare, or contribute to off-site child care within walking distance (0.1 percent to 1 percent of work trips);
- Phase II uses shall provide preferential parking (i.e., near building entrances, sheltered areas) for carpool and vanpool vehicles. (0.5 percent to 1.5 percent of work trips);
- Phase II uses shall provide secure, weather-protected bicycle parking for employees (0.5 percent to 2 percent of work trips);
- Provide showers and lockers for employees bicycling or walking to work (0.5 percent to 2 percent of work trips);
- Participate in the Alameda County Congestion Management Agency Guaranteed Ride Home Program, which guarantees that employees using transit will have a ride home (or to another location) or reimbursement for the travel costs (within certain limits) (information on effectiveness is not available); and

- Implement a parking cash-out program that provides a cash allowance to employees in lieu of a parking space. Employees participating in the program would not be allowed to drive their cars to the Wal-Mart site for work.

The City of Fremont also finds that as to such significant effects identified above:

Specific economic, legal, social, technological or other considerations, make infeasible project alternatives identified in the EIR.

The basis for these two findings is discussed below.

Basis for Findings:

Given the BAAQMD-recommended approach used for determining cumulative air quality impacts, there is no specific point at which the mitigation measures would be effective enough to reduce the project contribution to a less-than-significant level. Even with a substantial reduction in the project air pollutant emissions, those emissions, together with the emissions from reasonably foreseeable development, would likely exceed the BAAQMD thresholds for at least one criteria pollutant.

In addition, there is no guarantee that all of the measures would be maximally effective in mitigating the impact. The Final EIR provides estimates of the effectiveness of each mitigation measure (to the extent such information is available). Most of the estimates are taken from the *BAAQMD CEQA Guidelines*, and are based on a review of published literature. The *BAAQMD CEQA Guidelines* states that, "in cases where a range of estimated effectiveness is provided, the low end of the range should be used unless local conditions warrant a higher figure."

Site-specific information on the effectiveness of the measures was not available. The project site can be served directly by one transit route (AC Transit Route 215), and a second route (AC Transit Route 232) can be accessed within one-quarter mile of the project site. However, project trips would be generated primarily by retail customers, and the project site is in an area that consists primarily of industrial and big-box retail uses. These factors indicate that the mitigation measures could be less than maximally effective.

The current BART station in the Fremont Central Business District is several miles from the proposed site. The future Warm Springs BART station will be approximately 0.4 mile from the proposed site and is currently projected to be open for service in 2008. As a result of the new BART station, it is anticipated that the public transit service in the area will change substantially. The need for better transit service will also arise from development that could be expected to occur near a new BART station over time. The Warm Springs BART Specific Plan may also identify opportunities for increased or more efficient public transit. These future events could help make the mitigation measures for the Wal-Mart Project more effective in reducing automobile trips, but it would be speculative to assume such an outcome at this time.

A number of additional measures to reduce pollutant emissions were considered during preparation of the Draft EIR and RPEIR and in response to comments on the Draft EIR. These measures were rejected as being technically infeasible or ineffective when applied to the proposed project.

The alternatives evaluated in the Final EIR were rejected because they either failed to meet most of the basic project objectives, and/or were unable to avoid significant environmental impacts. The No Project Alternative and Alternative 2 failed to meet most of the basic project objectives, whereas Alternative 3 would still result in significant cumulative air quality impacts. See Section III for further discussion.

III. FEASIBILITY AND EFFECTIVENESS OF ALTERNATIVES

The City of Fremont considered three alternatives to the proposed project in the Final EIR: the No Project Alternative (Alternative 1), development of the entire project site in industrial use (Alternative 2), and development of the proposed Wal-Mart plus development of the remainder of the project site in retail and restaurant uses (Alternative 3). Other potential uses of the site and an off-site alternative were

considered but rejected. The characteristics, impacts, and feasibility of each of the three alternatives evaluated in detail in the EIR are discussed below.

Alternative 1: No Project Alternative

Description of Alternative:

As noted in Section 15126.6 (e)(3)(B) of the CEQA *Guidelines*, an EIR on projects other than a land use or regulatory plan ("for example a development project on identifiable property") typically analyzes a No Project Alternative that is "the circumstance under which the project does not proceed." The EIR compares the environmental effects of the property remaining in its existing state against the environmental effects of the proposed project. "If disapproval of the project under consideration would result in predictable actions by others, such as the proposal of some other project, this 'no project' consequence should be discussed."

In this case, disapproval of the proposed project would mean that, at least in the short term, the project site would remain in its existing vacant state. The resulting impacts would generally be maintenance of the existing environmental conditions on the project site.

In the longer term, it is reasonable to assume (given that the project site is designated and zoned for development) that an alternative development project would be proposed. (This alternative development project is represented by Alternative 2.)

Impacts/Feasibility of the No Project Alternative:

The No Project Alternative was rejected because it fails to meet most of the basic project objectives. The No Project Alternative would not achieve the project objective of constructing a store to provide the City with a value priced shopping alternative to bring a wide variety of products to citizens of the City. Further, it would not allow attainment of the project objectives of developing the site with large-scale retail uses, or of providing a general merchandise store that would provide significant benefits to the City and community in terms of employment opportunities, sales tax revenues, shopping opportunities and community programs. The No Project Alternative would also not meet the project objectives related to providing compatible architectural design, minimizing access and circulation conflicts, providing substantial landscaping, designing compatible storage areas, minimizing traffic impacts, providing sufficient parking, and providing adequate infrastructure.

The No Project Alternative would have some benefits relative to the proposed project. For instance, since the alternative would not involve construction or development, it would not result in any significant cumulative impacts related to air quality and would eliminate the generation of PM_{10} associated with construction activities. In addition, because there would be no construction, the No Project Alternative would not have any significant impacts related to loss of flood storage volume, to surface and ground water quality, and to potential exposure to on-site soil contamination. Further, since there would be no development, the No Project Alternative would eliminate the significant impacts related to unstable soils, expansive soils and construction-generated erosion.

The mitigation measures that have been incorporated into and required of the project would substantially mitigate or avoid most of the significant environmental impacts of the project, except those effects that are described as unavoidable (i.e., cumulative air quality impacts). As a result, the perceived benefits of approving the No Project Alternative in order to mitigate/avoid impacts are diminished.

Many of the benefits derived from the project would not be obtained if the No Project Alternative were adopted. For instance, the No Project Alternative would deprive the City of the positive economic impacts created by the project, which include: increased revenues, capture of some of the retail sales the City has been losing to surrounding communities, creation of long-term employment opportunities by job creation and a commitment to significant investment in the community.

The City of Fremont therefore declines the No Project Alternative because it is not "feasible" in that it does not promote the underlying goals and objectives of the project.

Alternative 2: Development of Site in Industrial Use

Description of Alternative:

According to the Fremont General Plan Land Use Map, the project site is designated General Industrial with a Commercial-Industrial Overlay. The designation permits all types of industrial uses, including warehouse, distribution and wholesaling businesses. Limits on development include a Floor Area Ratio (FAR) of 0.35, at an average height of 40 feet, and approximately 35 employees per acre. The project site is zoned G-I, General Industrial. A part of the project site is also zoned G-I (F) General Industrial (Flood Combining District). The G-I district permits construction; manufacturing; transportation, communications, electric, gas and sanitary services; wholesale trade; administrative and executive offices; wholesale retail uses; motion picture production; recording studios; pet training; manufacturers of electronics; caterers; business services; and personal services such a laundry and dry cleaning. The maximum FAR is 0.35, except for warehouses, which can be developed at an FAR of 0.45. The maximum building height is 40 feet, except for warehouses, which can be built up to a height of 60 feet.

This alternative would involve development of the entire project site with industrial uses, consistent with the existing *General Plan* designation and zoning. At an FAR of 0.35, up to about 253,000 square feet of industrial uses could be constructed on about 5.8 acres (assuming a one-story building) or roughly 2.9 acres (assuming a two-story building). Up to about 1,265 parking spaces would be required; at a ratio of about 150 parking spaces per acre, the parking would cover 8.4 acres of the site. Therefore, the total development envelope would range from 11.3 acres to 14.2 acres, not including driveways and internal roads.

As noted above, a wide range of industrial uses would be allowed on the project site. For the purposes of the EIR, no specific use was assumed for Alternative 2, but the analysis of potential impacts considered the range of uses allowed by the existing zoning. A wider range of industrial uses could be developed under Alternative 2 than under Phase II of the proposed project because the parcel sizes proposed as part of the project would range from 0.77 to 1.23 acres. The typical size of parcels created for industrial development in the project area is substantially larger than one acre.

Although a specific site plan for this alternative has not been developed, it is assumed that the plan would focus on the retention of trees that would be retained under the proposed project, and that the plan would provide for landscaping similar to that provided by the project. It is assumed that access to the site would be similar to that provided by the proposed project.

Impacts/Feasibility of Alternative 2:

Like the No Project Alternative, Alternative 2 was rejected because it fails to meet most of the basic project objectives. Alternative 2 does not achieve the project objective of developing a use consistent with the large-scale retail development allowed under the Commercial Industrial Overlay District. Further, Alternative 2 would not achieve the project objectives of constructing a store to provide the City with a value priced shopping alternative to bring a wide variety of products to citizens of the City, and providing a general merchandise store that will provide significant benefits to the City and community in terms of employment opportunities, sales tax revenues, shopping opportunities and community programs. Depending on the specific site plan, Alternative 2 could meet the project objectives related to providing compatible architectural design, minimizing access and circulation conflicts, providing substantial landscaping, designing compatible storage areas, minimizing traffic impacts, providing sufficient parking, and providing adequate infrastructure.

Depending on the type of industrial use developed, Alternative 2 could also result in some increased impacts compared to those of the project. These impacts would be related primarily to development of a manufacturing use or use that involved substantial truck volumes, and include stationary source

emissions of air pollutants, the generation of odors or release of toxic air contaminants, impacts to water quality, and the use of hazardous materials and generation of hazardous wastes. In addition, under Alternative 2, some types of industrial uses could generate more water demand and wastewater treatment capacity than would be generated by the proposed project.

Depending on the type of industrial use developed, Alternative 2 could result in reduced impacts compared to those of the project. Impacts related to the potential loss of flood storage volume could be less than those of the project, but would still be significant before mitigation (given the concern about potential flooding downstream from the project site).

Alternative 2 would generate fewer daily and PM peak hour trips than the project. However, it would generate more AM peak hour trips. Also, Alternative 2 would possibly result in significant impacts at two additional intersections. Issues regarding the adequacy of the left-turn pocket at the Osgood Road and Auto Mall Parkway intersection would be addressed by improvements already under construction at the intersection (same as for the proposed project).

Also, under Alternative 2, there could be less site coverage depending on the specifics of the site plan and, therefore, the resulting increase in peak runoff flows could be lower and less of the ponding area may need to be filled. Less site coverage could also mean that more land is available on site to compensate for the storage volume lost.

Alternative 2 would involve the same general area of construction as the proposed project, so the impact related to construction $\underline{PM_{10}}$ would still be significant. As with the project, the impact would be addressed through the use of all feasible control measures recommended by BAAQMD and measures to reduce construction exhaust emissions. Alternative 2 would generate substantially fewer daily trips than the project. However, under Alternative 2, the cumulative impact to air quality related to mobile emissions would still be significant, based on the substantial numbers of increased trips resulting from other foreseeable projects. As with the project, the impact could be reduced through the use of mitigation measures.

Alternative 2 would have similar significant impacts related to surface and ground water quality, and to potential exposure to on-site soil contamination as the proposed project, since it would involve essentially a generally similar area of construction. The significant impacts related to unstable soils, expansive soils and construction-generated erosion would also be similar.

Therefore, the mitigation measures that have been incorporated into and required of the project would substantially mitigate or avoid most of the significant environmental impacts of the project, except those effects that are described as unavoidable (i.e., cumulative air quality impacts). As a result, the perceived benefits of approving Alternative 2 in order to mitigate/avoid impacts are diminished.

Many of the benefits derived from the project would not be obtained if Alternative 2 were adopted. For instance, Alternative 2 would deprive the City of the positive economic impacts created by the project, which include: increased revenues, capture of some of the retail sales the City has been losing to surrounding communities, creation of long-term employment opportunities by job creation and a commitment to significant investment in the community.

The City of Fremont declines Alternative 2 because it does not promote the underlying goals and objectives of the project and does not avoid or substantially lessen the significant impacts of the project.

Alternative 3: Remainder of Site in Commercial Use

Description of Alternative:

Alternative 3 would involve development of the Wal-Mart portion of the project site as proposed, and development of the remainder of the project site in retail commercial uses. Under this alternative, all aspects of the proposed Wal-Mart would be developed as proposed. The remaining three acres of the project site would be developed with commercial uses. The EIR assumed that the development would

include 37,000 square feet of retail uses and 8,000 square feet of restaurants. As with the Phase II development under the proposed Fremont Wal-Mart Project, a site plan for the commercial uses has not been developed.

Impacts/Feasibility of Alternative 3:

Alternative 3 was eliminated because it fails to avoid significant environmental impacts of the project. Alternative 3 would result in increases in some impacts compared to those of the project. The alternative would generate more traffic in the AM and PM peak hours; however, potential impacts at the intersection of Auto Mall Parkway and Osgood Road would be addressed by improvements already under construction at the intersection. The increase in traffic would not result in any significant impacts to transportation or circulation.

The increase in traffic would also result in increased air pollutant emissions, and there would be an additional significant "project-specific" impact with respect to emissions of ROG, as well as an increase in the contribution to cumulative air pollutant emissions. Other impacts would be similar to those of the project.

Alternative 3 would meet some of the project objectives, such as constructing a Wal-Mart store, developing the site with large-scare retail uses, and providing a general merchandise store that provides benefits to the City and community. Depending on the specific site plan for the Phase II uses, implementation of Alternative 3 could also meet the project objectives related to providing compatible architectural design, minimizing access and circulation conflicts, providing substantial landscaping, designing compatible storage areas, minimizing traffic impacts, providing sufficient parking, and providing adequate infrastructure.

However, as discussed above, Alternative 3 would result in similar impacts to those of the project and, in some cases, could result in increases in some impacts compared to those of the project. Nonetheless, the mitigation measures that would be incorporated into and required of Alternative 3 would substantially mitigate or avoid most of the significant environmental impacts of the alternative.

Moreover, many of the benefits derived from the project would still be obtained if the Alternative 3 were adopted. For instance, Alternative 3 would still provide the City with the positive economic impacts created by the project, which include: increased revenues, capture of some of the retail sales the City has been losing to surrounding communities, creation of long-term employment opportunities by providing good quality jobs at competitive wages, and a commitment to significant investment in the community.

Nonetheless, to the extent that commercial use of the remainder of the project site results in significant environmental impacts, such use could be inconsistent with General Plan policies intended to protect the City's resources and welfare. In addition, Alternative 3 does not meet the project objective of providing a primary retail use with industrial use of the pads.

Therefore, the City of Fremont declines Alternative 3 because it does not avoid or substantially lessen the significant impact.

IV. STATEMENT OF OVERRIDING CONSIDERATIONS. THE FEIR IDENTIFIES SIGNIFICANT UNAVOIDABLE IMPACTS FROM THE WAL-MART PROJECT THAT CANNOT BE MITIGATED TO A LESS THAN SIGNIFICANT LEVEL. THE PLANNING COMMISSION FINDS THERE ARE SPECIFIC OVERRIDING ECONOMIC, LEGAL, SOCIAL, TECHNOLOGICAL OR OTHER BENEFITS OF THE PROJECT, AS SET FORTH BELOW, WHICH OUTWEIGH THE SIGNIFCANT EFFECTS ON THE ENVIRONMENT.

STATEMENT OF FACTS SUPPORTING STATEMENT OF OVERRIDING CONSIDERATIONS

The City of Fremont has concluded that the Wal-Mart project, as proposed and with identified mitigation measures, is the most capable of meeting the applicant's and the City's objectives with the least environmental impact. However, pursuant to Public Resources Code Section 21081, prior to approving a

project that has identified unavoidable significant impacts, the Planning Commission is required to find that there are specific overriding economic, legal, social, technological or other benefits of the project which outweigh the significant effects on the environment. The unavoidable significant effects on the environment are set forth below, followed by the findings supporting a determination that there are overriding considerations for moving forward with the project despite those potentially significant effects.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

Air Quality – Impact AQ-8: Cumulative Impacts: Operational Emissions.

Given that the proposed project itself would generate emissions of Reactive Organic Gases (ROG) that would be just 2 to 5 pounds below the Bay Area Air Quality Management District (BAAQMD) threshold of 80 pounds per day, and that reasonably foreseeable development in the project area could include as much as 9.4 million square feet of industrial and commercial uses, it is clear that the project would have a significant cumulative air quality impact. The ROG emissions from the project have been calculated utilizing a seven day weighted average for vehicle trips, which takes into account higher Saturday and weekend trip generation. A commentator has requested that the City consider Saturday only traffic generation for determining the project's operational emissions, and using that Saturday only analysis raises the ROG emissions for the project above the BAAQMD threshold.

The Draft and Final Environmental Impact Report have identified a series of Mitigation Measures that must be adopted prior to project approval to address air quality impacts. The applicant has also proposed a number of project features to reduce Phase I-related air quality impacts.

Specific Overriding Benefits:

1. Significant Effect: Cumulative Operational Emissions Air Quality Impact.

Benefits and Findings of Fact: Although the project's operational impacts, with mitigation measures in place, will reduce potentially significant impacts to a less than significant level, cumulative impacts for air quality were found to be a significant and unavoidable. Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines have a specific methodology for determining cumulative impacts for air quality. This methodology requires analyzing project operational impacts together with other reasonably foreseeable projects. All feasible mitigation measures, as listed in detail above in sections I and II, have been identified and required as part of the Final EIR and Mitigation and Monitoring Plan. As noted in the Effects That Cannot Be Mitigated to a Less-Than-Significant Level section above, all feasible mitigation measures were adopted, and other mitigation measures were documented to be infeasible.

As noted above, the air quality emissions generated from this project have been calculated using a seven day weighted average and the project's operational impacts are at a less than significant level, except for the cumulative impacts noted above. However, if calculated using Saturday only traffic as requested by a commenter, the emissions from the project exceed the BAAQMD ROG threshold. While the City of Fremont firmly and reasonably believes that the seven day weighted average is a proper method for calculating traffic generation and related emissions, if the commentator's Saturday only approach was used, the project may have significant impact on air quality as described in the RPFEIR (page 14.EA-36). The City of Fremont wishes to make clear that even if the commenter's Saturday only Saturday impact methodology were used and the project is found to have significant air quality impacts, the Statement of Facts Supporting Statement of Overriding Considerations would also applies to that impact.

By approving this project the City of Fremont will be providing jobs and an important revenue stream from project generated sales taxes for vital City services. The City Council of the City of Fremont has recognized that Fremont currently experiences a leakage of sales tax dollars of approximately $1.1 billion a year as City residents do their shopping in neighboring communities (according to "Retail Market Assessment & Downtown Retail Strategy Study," September 2002 prepared by Thomas Consultants Inc.) The location of a Wal-Mart store within the city limits would help to capture more of Fremont residents'sales tax dollars. The City estimates that a Wal-Mart store could generate $100,000 to $500,000 annually in sales tax with annual sales of $10,000,000 to $50,000,000. The Wal-Mart store

would also provide convenience to Fremont residents who are now shopping at other Wal-Mart's in adjacent or nearby communities. Approximately 300 jobs would also be generated by this use.

As indicated in the staff report and the EIR, the applicant has indicated the remaining three parcels would be developed the second quarter of 2005 (Phase II). The proposed development will enhance the City's economic and employment base.

Thus, the Wal-Mart and the industrial uses will enhance the tax base, create more jobs, and provide diverse shopping opportunities for residents of the City. The data to support these overriding factors in part is published in the Economic and Fiscal Impact Study prepared for the Proposed Fremont Wal-Mart Store. The study was prepared and published by Sedway Group. This document was published in April of 2000.

Exhibit "F"
MITIGATION MONITORING AND REPORTING PROGRAM
FREMONT WAL-MART

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
AIR QUALITY			
AQ-1a: Construction Emissions of PM_{10}			
The applicant has indicated that the project construction period would be about six months. Although the project's construction-related emissions would be temporary in duration, in the absence of control measures, they could be substantial. If grading occurs during fall or winter months, exhaust emissions of PM_{10} could contribute to violations of the State 24-hour ambient standard on certain days. Therefore, this potential impact is considered significant.	**AQ-1a: Construction Dust Measures**. In accordance with the *BAAQMD CEQA Guidelines*, the project applicant shall require the construction contractor to implement the following dust control measures, as applicable, during all proposed project construction activities. **Basic Control Measures** • Water all active construction areas at least twice daily (with recycled water, if possible); • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; • Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites; • Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; • Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; **Enhanced Control Measures (applicable because construction area is more than four acres)** • Hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive ten days or more); • Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.); • Limit vehicle speeds on unpaved roads and over disturbed soils to 15 miles per hour during construction;	Environmental Services Department, Engineering Division	Review grading plans and dust control measures prior to issuance of grading permits. Periodic site visits during construction.

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
	• Replant vegetation in disturbed areas as quickly as possible (within 15 days of completion of construction in the area); • Install sandbags or other erosion control measures to prevent silt runoff to public roadways, as required by National Pollutant Discharge Elimination System (NPDES) Control Measures; **Optional Control Measures (BAAQMD encourages implementation of these measures at sites that are large or located near sensitive receptors)** • Install wheel washers for all exiting trucks or wash off the tires or tracks of all trucks and equipment leaving the site; • Install wind breaks, where necessary, at the windward side(s) of construction areas; and • Limit the area subject to excavation, grading, and other construction activity at any one time.		
	Construction Exhaust Measures If project grading occurs in May through August, construction exhaust emissions would be less than significant and no additional mitigation would be required. Otherwise, the project applicant shall require the construction contractor to implement one or more of the following measures to reduce construction exhaust emissions of PM_{10} from off-road equipment during project grading. The measures implemented must reduce emissions of PM_{10} by at least 61 percent. • Limit the hours of grading each day. The emissions reduction would depend on the extent grading is limited, and would be directly proportional to the percentage of the time grading is reduced;		

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
	• Use PuriNO_x or other fuel additive to minimize air pollutant emissions. Use of PuriNO_x would reduce exhaust particulate emissions by an average of about 54 percent, based on available data; • Use ultra-low-sulfur fuel (with low sulfur and low aromatic content). It is estimated that ultra-low-sulfur fuel would reduce particulate emissions by about 25 to 30 percent; and • Use PM_{10} particulate traps. Use of traps would reduce emissions by about 75 to 80 percent.		
AQ-8: Cumulative Impacts: Operational Emissions			
Given that the proposed project alone would generate emissions of ROG that would be 1 pound below the BAAQMD threshold, and that reasonably foreseeable development in the project area could include as much as 9.4 million square feet of industrial and commercial uses, it is clear that the project would have a significant cumulative air quality impact.	**AQ-8:** Wal-Mart and the occupant(s) of the remainder of the project site shall implement the following measures (per Table 15 of the *BAAQMD CEQA Guidelines*) to the extent feasible in order to reduce operational emissions related to vehicles traveling to and from the site. The City shall include these measures as conditions of project approval, and shall monitor the measures to ensure that they have been implemented. The list of measures was developed with the specific project and location in mind. Some potential measures in the *BAAQMD CEQA Guidelines* were rejected because they would not apply to a project that generates primarily retail customer trips, and/or they would not be effective in an area that consists primarily of industrial and big-box retail uses. The BAAQMD rates each measure's potential effectiveness in reducing vehicle emissions; these rates are noted following each measure. • Phase II employers shall coordinate participation in the carpool/vanpool program to be developed by the project applicant, or shall implement their own program (1 percent to 4 percent of work trips);	Environmental Services Department, Planning Division and Engineering Division.	Include as conditions of approval for Wal-Mart and Phase II projects. For measures involving site or building plans, review plans prior to issuance of building permits. For measures involving implementation of programs, confirm program details (or requirement for program in tenant leases) prior to issuance of occupancy permits.

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
	• As part of Phase I or Phase II, consider provision of on-site child chare, or contribute to off-site child care within walking distance (0.1 percent to 1 percent of work trips); • Phase II uses shall provide preferential parking (i.e., near building entrances, sheltered areas) for carpool and vanpool vehicles. (0.5 percent to 1.5 percent of work trips); • Phase II uses shall provide secure, weather-protected bicycle parking for employees (0.5 percent to 2 percent of work trips); • Provide showers and lockers for employees bicycling or walking to work (0.5 percent to 2 percent of work trips); • Implement a Commuter Check or equivalent program that either subsidizes employees' use of transit or provides a means for use of pre-tax dollars for transit (Table 15 does not provide an estimate of effectiveness, but one study found that the Commuter Check program increased transit use by an average of 30 percent at participating employers); • Participate in the Alameda County Congestion Management Agency Guaranteed Ride Home Program, which guarantees that employees using transit will have a ride home (or to another location) or reimbursement for the travel costs (within certain limits) (information on effectiveness is not available); and • Implement a parking cash-out program that provides a cash allowance to employees in lieu of a parking space. Employees participating in the program would not be allowed to drive their cars to the Wal-Mart site for work. In addition, the project applicant has proposed to include the following measures in the Wal-Mart to reduce Phase I-related air quality impacts. The City shall include implementation of these measures as conditions of project approval, and shall monitor the measures to ensure that they have been implemented.		

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
	• A carpool/vanpool program, including carpool ridematching for employees and assistance with vanpool formation (1 percent to 4 percent of work trips); • Construction of a bus stop in the project frontage of Osgood Road, to provide access via AC Transit Route 215 to nearby existing and future BART stations (0.5 percent to 2 percent of all trips); • Provision of preferential parking for employee carpools (0.5 percent to 1.5 percent of work trips); • Provision of secure, covered bike parking, with bike racks located in front of the store (0.5 percent to 2 percent of work trips); • Provision of lockers if the demand arises; and • Provision of direct, safe pedestrian access from Osgood Road to the store entrance (0.5 percent to 1.5 percent of all trips).		
HYDROLOGY AND WATER QUALIFTY			
Hydro-3: Loss of Flood Storage Volume			
The loss of about 67,200 cubic feet of flood storage volume resulting from the project could cause flooding in the immediate area of the confluence of Line J and Line E, and reaches downstream of the confluence. These impacts would be significant.	**Hydro-3:** Prior to the issuance of building permits associated with the use permit for the project, the applicant shall revise the project site plans to compensate for the loss of flood storage volume. The loss of about 67,200 cubic feet of flood storage could be feasibly replaced through the construction of an equal volume of water retention on site. A combination of above-ground and below-ground storage below elevation 30 could compensate for the lost volume. Since the publication of the Draft EIR, the applicant has submitted a revised drainage plan to meet the flood storage requirement. The revised drainage plan shows three detention ponds within the north parking lots. These three facilities and proposed connecting and collection drain pipes within the site would provide at least 67,200 cubic feet of storage below elevation 30.0 feet.	Environmental Services Department, Engineering Division	Review revised drainage plan prior to issuance of grading permit. Confirm proposed drainage system in place prior to issuance of building permit.

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
Hydro-4: Degradation of Water Quality			
Degradation of the water quality of both surface water and groundwater may occur during the construction and operational phases of the project. Specific design details for the detention basins have not been submitted by the applicant. Surface flow directly into the detention basins may contain pollutants, including petroleum products, originating from the parking area, driveway, loading dock, and automotive service area. If the proposed basins and other BMP devices are not designed or maintained properly, pollutants could affect both surface water and groundwater. This potential impact would be significant.	**Hydro-4a:** The design of the detention basins, inlet filters, grease interceptors and associated BMP devices shall be submitted for approval to the City. Information detailing the effectiveness of each of the BMP features in preventing pollutants from infiltration into the groundwater and from discharge to Line J must also be submitted. The BMPs shall be designed, constructed and maintained to meet the performance standard in effect at the time the building permit for the project is issued. If the treatment system proposed at that time does not meet the governing performance standards, the applicant shall implement additional structural BMPs to mitigate post-development stormwater flows, in consultation with the City.	Environmental Services Department, Engineering Division	Review design details and information on effectiveness for the detention basis, inlet filters, grease interceptors and associated BMPs prior to issuance of grading permits. Confirm installation of approved BMPs prior to issuance of occupancy permits.

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
	Hydro-4b: The applicant shall submit a monitoring/maintenance plan for the BMP devices to the City for approval, as appropriate for each BMP. Maintenance and monitoring activities shall include (but not be limited to) initial setup, scheduled maintenance, and scheduled monitoring in perpetuity. Information detailing the minimum frequency of such maintenance activities must also be submitted. If the applicant proposes to use stormwater inlet filters, the applicant shall show how the filter material and the pollutants collected in the filters will be disposed of, and shall outline maintenance responsibilities and schedule.	Environmental Services Department, Engineering Division	Review monitoring/ maintenance plans prior to issuance of occupancy permits. Annual confirmation of monitoring/ maintenance activities.
	Hydro-4c: The applicant shall retain a qualified professional to maintain the on-site BMP devices during the operational phase of the project, as appropriate for each BMP. The professional shall submit annual maintenance reports detailing completed maintenance activities and potential water quality problems to the City.	Environmental Services Department, Engineering Division	Confirm that qualified professional retained prior to issuance of occupancy permits. Review annual maintenance reports.
	Hydro-4d: Prior to approval of the Final Map associated with the use permit for the project, the applicant shall submit information documenting (or revise the project plans as necessary to show) that the project landscaping and irrigation system have been designed to minimize water use, promote surface filtration, and minimize the use of fertilizers, herbicides, and pesticides. The applicant shall also submit a project-specific integrated pest management (IPM) program for approval by the Assistant City Manager.	Environmental Services Department, Engineering Division Assistant City Manager	Review final landscaping and irrigation plans prior to approval of the Final Map. Review landscaping plans for Phase II uses (as applicable) prior to issuance of grading permits. Review IPM program prior to approval of the Final Map. Review IPM program for Phase II uses (as applicable) prior to issuance of grading permits.

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
Hydro-6: Cumulative Impacts			
Together with other projects planned for in the City of Fremont and the County of Alameda, construction of the proposed development could potentially contribute to cumulative hydrologic and water quality impacts.	The project contribution to the cumulative loss of flood storage volume would be mitigated by the measure for Impact **Hydro-3**, above. To minimize cumulative impacts, the drainage plan and SWPPP would include control measure BMPs to prevent surface runoff from inducing erosion at and downstream of discharge points, and maintain water quality of runoff and percolate. When combined with the project-specific mitigation measures identified above, regulatory requirements and guidelines, such as those associated with the NPDES permitting program and the San Francisco Basin Plan, would serve to minimize or avoid potentially adverse cumulative water quality impacts of grading and conversion to urban uses.	See Measures **Hydro-3** and **Hydro-4a** through **-4d** above.	See Measures **Hydro-3** and **Hydro-4a** through **-4d** above.

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
GEOLOGY , SOILS, AND SEISMICITY			
Geo-3: Erosion			
Soils exposed to wind and water erosion could create sedimentation in the drainage adjacent to the site. The applicant would be required to submit an erosion control plan in compliance with Title VIII, Chapter 4 of the Fremont Municipal Code, and the City Engineer would have the authority to review and approve the plan. However, the applicant has not developed such a plan at this time. For that reason, the potential impacts related to erosion would be significant.	**Geo-3:** Prior to the start of grading for the project, the project applicant shall develop an erosion control plan and submit it to the City for approval. The plan shall be prepared in accordance with Title VIII, Chapter 4 of the Municipal Code. The plan shall require that construction personnel implement all relevant measures of the plan during earthmoving and other construction activities. The plan may include, but shall not be limited to, the following measures: 1. Earth moving activities shall be restricted to the dry season and erosion protection measures shall be provided for each project prior to the onset of winter rains. 2. Soil stockpile areas shall be designated on the construction plans and soil stockpiles shall be covered and protected by a plastic membrane during the rainy season. 3. Disturbed areas shall be revegetated, utilizing such measures as planting of native grasses, plants and shrubs and the installation of jute netting and hydroseeding in areas of more difficult revegetation.	Environmental Services Department, Engineering Division	Review erosion control plans prior to issuance of grading permits. Periodic inspection during grading.

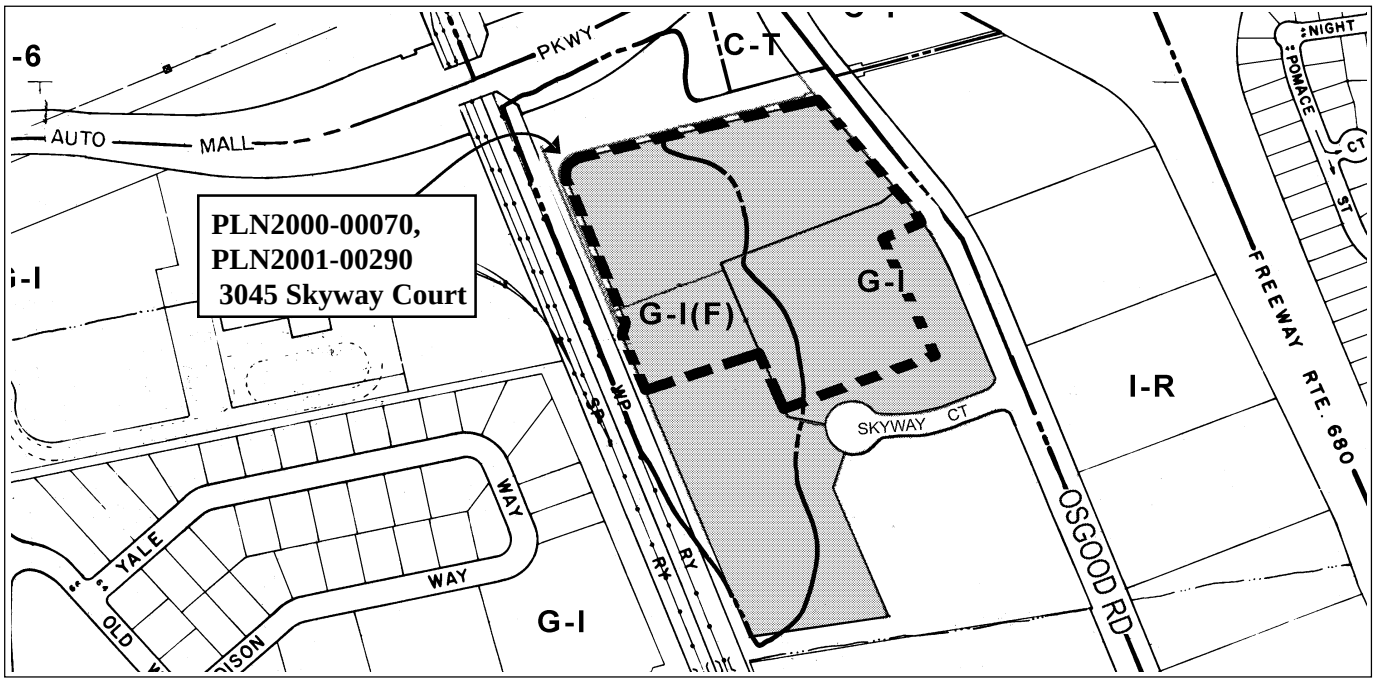
Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
Geo-4: Geologic/Soil Instability			
The Krazan report notes several issues related to the moisture content of site soils. Soils that become very moist (as the result of improper construction and drainage, for example) can become unstable, and thus present hazards for proposed structures. The potential impacts related to the presence of unstable soils on site (due to their moisture content) would be significant.	**Geo-4:** The project developer shall implement all of the recommendations in the September, 1999 Geotechnical Investigation prepared by Krazan & Associates, Inc. Recommendations relevant to mitigating impacts related to unstable soils include, but are not limited to, the following: • Winterization, consisting of placement of aggregate base and protecting exposed soils from saturation during the construction phase, shall be performed. • The upper 12 inches of the surface soils shall be moisture conditioned and recompacted. • The ground surface shall slope away from building pad and toward appropriate drop inlets or other surface drainage devices. It is recommended that adjacent exterior grades be sloped at a minimum of 2 percent for a distance of at least 10 feet from the building. Subgrade soils in pavement areas sloped at a minimum of 1 percent and drainage gradients shall be maintained to carry all surface water to collection facilities and off-site. These grades shall be maintained for the life of the project.	Environmental Services Department, Engineering Division	Review grading plans prior to issuance of grading permits. Periodic inspection during grading.

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
Geo-5: Presence of Expansive Soils			
The Krazan report indicates that the clayey surface soils at the project site have high expansive characteristics, and will be subject to changes in volume as the moisture content changes. If not designed properly, the proposed structures could be subject to hazards, such as differential movements of foundations and building slabs. The potential impacts related to the presence of expansive soils on site would be significant.	**Geo-5:** The project developer shall implement all of the recommendations in the September, 1999 Geotechnical Investigation prepared by Krazan & Associates, Inc. Recommendations relevant to mitigating impacts from expansive soils include, but are not limited to, the following: • As an alternative to importing non-expansive fills, the upper 2.5 feet below the building pad subgrade can be on-site, lime-treated material. The project applicant has indicated that this is the proposed approach. • Structural foundations shall be designed to meet the soil bearing pressures outlined in the Krazan report. The footings shall have a minimum depth of 24 inches below pad subgrade or adjacent exterior grade, whichever is lower. The footings shall have a minimum width of 12 inches.	Environmental Services Department, Engineering Division	Review grading plans prior to issuance of grading permits. Periodic inspection during grading and construction.
Geo-6: Cumulative Impacts			
Without mitigation, impacts related to erosion could be cumulatively significant if they caused increased sediment in area streams or increased fugitive dust emissions.	For erosion, the project-specific measures identified in this section would also mitigate the project's contribution to the cumulative impact.	See Measure **Geo-3** above.	See Measure **Geo-3** above.

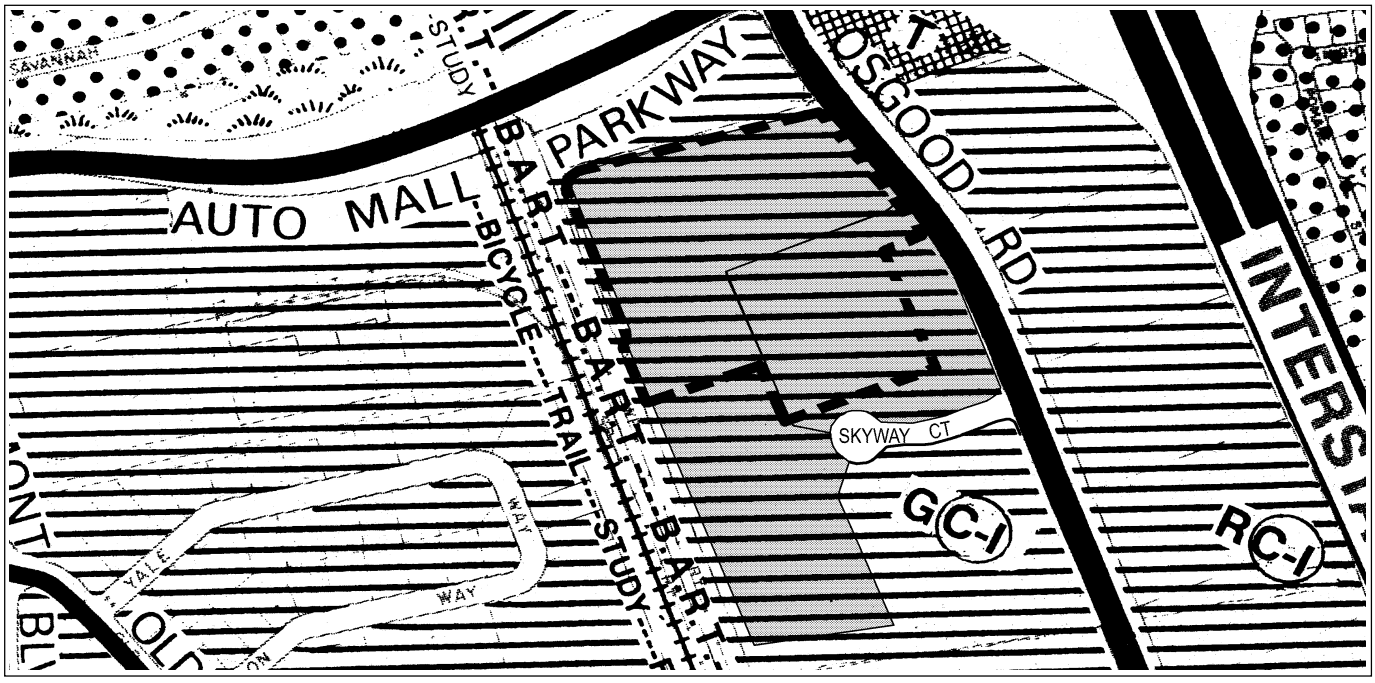
Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
HAZARDS			
Hazards-1: Potential Threats to Persons or the Environment from Existing Contamination			
The potential to encounter soil contamination during site preparation activities and expose persons or the environment to this contamination is considered a potentially significant impact.	**Hazards-1a:** Prior to any construction-related activities on the project site, the project applicant shall update the 1999 Phase I Environmental Site Assessment to reflect the latest information available in federal and State agency databases, as well as an updated reconnaissance of the project site. If the updated information indicates that contamination could be present within the project site, the applicant shall conduct sampling and analysis in the area(s) of potential concern. If contamination is found, the applicant shall remediate it as described in Measure **Hazards-1b**.	Fire Department, Hazardous Materials Division	Review updated Phase I Environmental Site Assessment and sampling and analysis results (if required) prior to issuance of grading permit.
	Hazards-1b: If contaminated soil is encountered during the course of site grading and excavation activities, the construction contractors shall stop work and contact an environmental hazardous materials professional to conduct an on-site assessment. If the materials are determined to pose a risk to the public or construction workers, the construction contractor shall prepare and submit a remediation plan to the County of Alameda Department of Environmental Health or other appropriate agency and comply with all federal, state, and local laws and regulations. Soil remediation methods could include excavation and on-site treatment, excavation and off-site treatment or disposal, and/or treatment without excavation. Construction plans shall be modified or postponed to ensure construction will not inhibit remediation activities and will not expose the public or construction workers to hazardous conditions.	Fire Department, Hazardous Materials Division; Environmental Services Department, Planning Division.	Confirmation that remediation plan was approved by County of Alameda Department of Environmental Health prior to issuance of grading permit. Confirmation that remediation was completed successfully prior to issuance of grading permit.

Category/Impacts	Mitigation Measures	Monitoring/ Reporting Responsibility	Monitoring/Reporting Requirement
Hazards-4: Cumulative Impacts			
Due to previous agricultural uses, there could be significant project-related impacts if contamination is encountered or released to the environment during project construction. Construction of the future development and cumulative projects could therefore expose persons and/or the environment to hazardous materials.	Implementation of remediation for individual projects as they are developed (including Measures **Hazards-1a** through **–1b** for the proposed Wal-Mart project) would address potential cumulative impacts related to contamination.	See Measures **Hazards-1a** and **-1b** above.	See Measures **Hazards-1a** and **-1b** above.

INFORMATIONAL



Existing Zoning



Existing General Plan

Project Number: PLN2000-00070, PLN2001-00290 (EIR,CUP, GP)

Project Name: Walmart

Project Description: To consider Certification of an EIR (SCH#2001082059), a Conditional Use Permit and Preliminary Grading Plan for a 155,652 (approximate) square foot Wal-Mart store located at 3045 Skyway Court at the intersection of Osgood Rd. and Skyway Ct. in the Industrial Planning Area.

Note: Prior arrangements for access are not required for this site.

N

1" = 500'

0' 500'

78-368 [pc on 03-27-03] [pc on 12-12-02]